OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Volumes 1 - 5
H.R. 5835

PUBLIC LAW 101-508
101ST CONGRESS

REPORTS, BILLS, DEBATES, AND ACT

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration

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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

PREFACE

This 5 volume compilation contains historical documents pertaining to P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990.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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Calendar No. 992

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

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A BILL

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

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

SECTION 1. SHORT TITLE.

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

SEC. 2. TABLE OF CONTENTS.

TITLE VI—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 6000. AMENDMENT OF THE SOCIAL SECURITY ACT, TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

Subtitle A—Income Security

PART II—SUPPLEMENTAL SECURITY INCOME

SEC. 6010. CONTINUATION OF MEDICAID ELIGIBILITY UNDER SECTION 1619(b) PAST AGE 65.

(a) IN GENERAL.—Paragraph (1) of section 1619(b) (42 U.S.C. 1382h(b)) is amended in the matter preceding subparagraph (A) by striking "under age 65".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits payable for months beginning after the date of the enactment of this Act.

SEC. 6011. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 6012. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking "; and" at the end of the subparagraph and inserting a semicolon; and

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

"(E) any royalty which is earned in connection with any publication of the work of an individual or any portion of any honorarium which is received for services rendered; and"; and

(2) in subparagraph (F) of paragraph (2), by inserting before the period ", other than royalties described in paragraph (1)(E) of this subsection".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 18th calendar month following the month in which this Act is enacted.

SEC. 6013. EVALUATION BY PEDIATRICIAN IN CHILD DISABILITY DETERMINATIONS.

Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following new subparagraph:

"(H) In making determinations with respect to disability of a child under the age of 18 under this title, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of such child (as determined by the Secretary) evaluates the case of such child.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6014. CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED INDIVIDUALS.

Section 1631(m) (42 U.S.C. 1383(m)) is amended by striking the second sentence and inserting the following new sentence: "The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subsection shall also be permitted to apply at the same time for participation in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).".

SEC. 6015. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—(1) Section 1615(d) (42 U.S.C. 1382d(d)) is amended by inserting immediately after the first sentence the following: "In such cases the reimbursement may include costs incurred for any month for which the individual received a benefit under this title (including assistance pursuant to section 1619(b)), received a federally administered State supplementary payment, or was ineligible (for a reason other than cessation of disability or blindness) to receive a benefit pursuant to section 1611, an agreement under section 1616(a), section 1619, and an agreement under section 212(b) of Public Law 93–66, but only for months prior to the thirteenth consecutive month of ineligibility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 6016. CERTAIN NON-CASH CONTRIBUTIONS RECEIVED BY RECIPIENTS OF SSI BENEFITS EXCLUDED FROM INCOME.

(a) CONTRIBUTIONS (OTHER THAN CASH PAID DIRECTLY TO THE RECIPIENT) MADE TO OBTAIN SOCIAL

SERVICES OR FOR MAINTENANCE OF HOME.—(1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of paragraph (15);

(B) by striking the period at the end of paragraph (16) and inserting a semicolon; and

(C) by inserting after paragraph (16) the following;

"(17) contributions other than cash paid directly to the recipient which are not in the form of food, clothing, or shelter, or may not be used to obtain food, clothing, or shelter and are for the purchase of—

"(A) any service, including those which are—

"(i) designed to assist an eligible individual who has any physical or mental impairment to function in society on a level comparable to that of an individual who is not so impaired; and

"(ii) provided by a recognized social services or educational agency, whether governmental or private, and whether nonprofit or operated for profit;

"(B) vocational rehabilitation services;

"(C) private medical insurance coverage where the private insurer is to be the first payor;

"(D) medical care;

"(E) transportation;

"(F) educational services (including continuing adult education, postsecondary education, and vocational education), including books, tuition, laboratory fees, and any other costs related to education except those for room and board;

"(G) personal assistance or attendant care services; or

"(H) services or equipment related to the quality and liveability of the individual's shelter and which are not for the purposes of rent, mortgage, real property taxes, garbage collection and sewerage services, water, heating fuel, electricity, or gas; but permissible contributions include—

"(i) payment for telephone services;

"(ii) payment for repairs to shelter;

"(iii) payment for repairs or replacement of heating source in shelter; and

"(iv) purchase of any appliance, if such purchase will not result in the individual's household goods exceeding the amount which

has been determined by the Secretary to be reasonable under section 1613(a)(2)(A).".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in months following the date of the enactment of this Act.

(b)(1) RULES GOVERNING CIRCUMSTANCES UNDER WHICH CONTRIBUTION OF A SHELTER IS TO BE COUNTED AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) in subparagraph (E), by striking "; and" and inserting ", except that receipt of any sum or property as a result of inheritance, gift, or support shall be treated as income only in the month in which the individual legally has access to the funds to use for the individual's own benefit;";

(B) in subparagraph (F), by striking the period and inserting "; and"; and

(C) by inserting at the end the following:

"(G) the value of an ownership interest in a shelter received, but the value of such interest shall be included in income only in the month of receipt and pursuant to the following rules:

"(i) If the individual resides in the shelter at the time of the conveyance, the limitations established by the Secretary for

presuming a maximum value for in-kind support shall apply.

"(ii) If the individual does not reside in the shelter at the time of the conveyance, the full value of the interest shall be income in the month of receipt.".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6017. CERTAIN TRUSTS NOT TO BE COUNTED AS A RESOURCE AVAILABLE TO THE RECIPIENT; TRUST NOT INCOME IN MONTH IN WHICH IT IS ESTABLISHED.

(a) CIRCUMSTANCES UNDER WHICH TRUST CREATED FOR BENEFIT OF RECIPIENT SHALL NOT BE COUNTED AS A RESOURCE.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting ", and"; and

(3) by inserting after paragraph (8) the following:

"(9) any amount set aside in a trust or similar legal device, either by the individual or on behalf of the individual, for the purpose of providing assistance to the individual, so long as the individual does not have

access to the assets of the trust. An individual does not have access to assets held in a trust if the trustee, and not the individual has the discretion to determine when such assets ought to be distributed to or for such individual and the amount of any such distribution. The authority for discretion by the trustee to use the assets of the trust for the support and maintenance of the individual, or to supplement any benefits available to the individual under title XVI or other public benefits, shall not mean that the individual has access to these assets. The fact that the trustee is also the representative payee for the individual or relative of the individual shall not be construed as causing trust assets to be accessible to the individual if all the other requirements of this subsection are satisfied.".

(b) CREATION OF TRUST NOT TO BE COUNTED AS INCOME IN MONTH OF CREATION; LATER PLACEMENT OF FUNDS OR PROPERTY IN THE TRUST ALSO NOT COUNTED AS INCOME.—(1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of the paragraph (16),

(B) by striking the period at the end of the paragraph (17) added by section 6016(a)(1)(C) of this Act and inserting "; and"; and

(C) by inserting after the paragraph (17) added by section 6016(a)(1)(C) of this Act the following:

"(18) any funds or other property placed in a trust for the benefit of the individual over which the individual has no discretion as to use shall not be treated as income either at the time of creation of the trust or if placed in the trust after its creation.".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6018. NOTIFICATION OF CERTAIN INDIVIDUALS ELIGIBLE TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive retroactive benefits under Sullivan v. Zebley, 110 S. Ct. 2658 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining—

(1) the 6-month limitation on the exclusion from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(2) the potential effects under title XVI of the Social Security Act, attributable to the receipt of such payment, including—

(A) potential discontinuation of eligibility; and

(B) potential reductions in the amount of benefits;

(3) the possibility of establishing a supplemental security income (SSI) special needs trust account that—

(A) designates the individual for whom such payment is made as the beneficiary; and

(B) may not be considered as income or resources for the purposes of this title; and

(4) that legal assistance in establishing such a trust may be available through legal referral services offered by a State or local bar association, or through the Legal Services Corporation.

PART V—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SEC. 6050. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), in the matter following subparagraph (C), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 6051. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

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

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93–66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93–66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93–66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93–66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred

to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93–66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93–66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance

benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93–66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 6052. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 6053. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit

paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.".

(B) TITLE XVI.—

(i) 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 subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to

whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(IV), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person

from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under 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 language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B)(i) Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(II) verify the social security account number (or employer identification number) of such person;

"(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(III);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(IV), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

"(iv) The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is—

"(I) a relative of the individual if such relative resides in the same household as such individual;

"(II) a legal guardian or legal representative of the individual;

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of the individual; or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(vi) The procedures referred to in clause (v)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary;

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(III) no other more suitable representative payee can be found.

"(vii) Subject to clause (viii), if the Secretary makes a determination described in subparagraph (A)(ii) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(viii)(I) Except as provided in subclause (I), any deferral or suspension of direct payment of a benefit pursuant to clause (vii) shall be for a period of not more than 1 month.

"(II) Clause (I) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent or under the age 15 years.

"(ix) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; and

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(x) Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(xi) Before the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to—

"(I) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent; or

"(II) the individual, in any other case.

"(xii) Any notice referred to in clause (xi) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative

payee of the individual, and explain to the reader the right under clause (x) of the individual or the legal guardian or legal representative of the individual—

"(I) to appeal a determination that a representative payee is necessary for the individual;

"(II) to appeal the selection of a particular person to be the representative payee of the individual; and

"(III) to review the evidence upon which the selection is based and submit additional evidence.".

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human

Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals,

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual, and

"(iii) was in existence on October 1, 1988.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

"(D) This paragraph shall cease to be effective on January 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(III) by inserting after subparagraph (C) the following:

"(D)(i) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

"(ii) For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee;

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals;

"(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual; and

"(cc) was in existence on October 1, 1988.

"(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

"(iv) This subparagraph shall cease to be effective on January 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of 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 REP- RESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 6055. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) of the Social Security Act (42 U.S.C 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible 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 procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication;

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

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an

individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORT.—

(1) IN GENERAL—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on the progress of the demonstration projects conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. The report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 6057. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION.

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices

of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

(d) GAO REPORT.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of

the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing the level of telephone access by the public to the local offices of the Social Security Administration.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on April 1, 1991.

SEC. 6058. AMENDMENTS RELATING TO SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL.—Section 1142 of the Social Security Act (42 U.S.C. 1320b-13), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2485), is amended—

(1) by striking "**SEC. 1142.**" and inserting "**SEC. 1143.**"; and

(2) in subsection (c)(2), by striking " a biennial" and inserting "an annual".

(b) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—Section 6103(p)(4) of such Code (relating to safeguards) is amended, in the matter following subparagraph (f)(iii), by striking "subsection (m)(2), (4), or (6)" and inserting "paragraph (2), (4), (6), or (7) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2), (4), or (6)" and inserting "(m)(2), (4), (6), or (7)".

SEC. 6059. TRIAL WORK PERIOD DURING ROLLING FIVE-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES.

(a) IN GENERAL.—Section 222(c)(42 U.S.C. 422(c)) is amended—

(1) in paragraph (4)(A), by striking ", beginning on or after the first day of such period," and inserting "in any period of 60 consecutive months,"; and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 6060. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM.

(a) IN GENERAL.—Section 225(b) (42 U.S.C. 425(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) such individual is participating in an approved program of vocational rehabilitation services, and"; and

(2) in paragraph (2), by striking "Commissioner of Social Security" and inserting "Secretary".

(b) PAYMENTS AND PROCEDURES.—Section 1631(a)(6) (42 U.S.C. 1383(a)(6)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) such individual is participating in an approved program of vocational rehabilitation services, and"; and

(2) in subparagraph (B), by striking "Commissioner of Social Security" and inserting "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month, as determined by the Secretary of Health and Human Services.

SEC. 6061. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS.

(a) IN GENERAL.—Section 228(a)(2) (42 U.S.C. 428(a)(2)) is amended by striking "(B)" and inserting "(B)(i) attained such age after 1967 and before 1972, and (ii)".

(b) EFFECTIVE DATE— The amendment made by subsection (a) shall apply with respect benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 6062. ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES AND REVENUES FROM TAXATION OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 201(a)(42 U.S.C. 401(a)) is amended—

(1) in the first sentence following clause (4)—

(A) by striking "monthly on the first day of each calendar month" both places it appears and inserting "from time to time";

(B) by striking "to be paid to or deposited into the Treasury during such month" and inserting "paid to or deposited into the Treasury"; and

(2) in the last sentence, by striking "Fund;" and inserting "Fund. Notwithstanding the preceding sentence, in any month for which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

SEC. 6063. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q)."; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 6064. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of";

(B) by striking the last sentence; and

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

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall

be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

"(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-

age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or

1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's

wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary

insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990".

(E)(i) Section 215(d) (42 U.S.C. 415(d)) is further amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months

after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

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

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of

the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 6065. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) (42 U.S.C. 623(e)) is amended by—

(1) by inserting "(1)" after "(e)"; and

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

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this

section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

Subtitle B—Medicare

PART 3—PROVISIONS RELATING TO PARTS A AND B

SEC. 6152. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF TRANSFER OF DATA.—

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) TEMPORARY EXTENSION OF ESRD PERIOD.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended to read as follows:

"(C) INDIVIDUALS WITH END-STAGE RENAL DISEASE.—

"(i) A group health plan (as defined in subparagraph (A)(v)) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period that begins with the earlier of—

"(I) the first month in which the individual becomes entitled to benefits under part A under the provisions of section 226A, or

"(II) in the case of an individual who receives a kidney transplant, the first month in which the individual would be eligible for benefits under part A (if the individual had filed an application for such benefits) under the provisions of section 226A(b)(1)(B).

"(ii) A group health plan (as so defined) may not differentiate in the benefits it provides between individuals having end-stage renal disease and other individuals covered by such plan on the basis of the existence of end-stage renal disease, the need for renal dialysis, or in any other manner. The preceding sentence shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A during a period occurring before or after the 12-month period described in clause (i).

"(iii) Effective for items and services furnished on or after February 1, 1991, and before January 1, 1996 (with respect to periods beginning on or after February 1, 1990), clauses (i) and (ii) shall be applied by substituting '24-month' for '12-month' each place it appears.".

(2) STUDY.—(A) The Comptroller General shall study and report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the impact of the application of clause (iii) of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) on individuals entitled to benefits under title XVIII of such Act by reason of section 226A of such Act. The report shall include information relating to—

(i) the number (and geographic distribution) of such individuals for whom medicare is secondary,

(ii) the amount of savings to the medicare program achieved annually by reason of the application of such clause,

(iii) the effect on access to employment, and employment-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of cost-sharing requirements under medicare after such employment-based insurance becomes secondary),

(iv) the effect on the amount paid for each dialysis treatment under employment-based health insurance, and

(v) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which medicare is secondary.

(B) The Comptroller General shall submit a preliminary report under this subsection not later than January 1, 1993, and a final report not later than January 1, 1995.

(d) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2)(A) The amendment made by subsection (a)(2)(B) shall apply to requests made on or after the date of the enactment of this Act.

(B) Section 1862(b)(1)(C)(i)(I) of the Social Security Act, as amended by subsection (c), and section 1862(b)(1)(C)(iii) of such Act, as added by such subsection, shall apply to periods beginning on or after February 1, 1990.

(C) The amendments made by subsection (d) shall be effective—

(i) on January 1, 1992, with respect to individuals described in clause (ii) of subparagraph (A) of the paragraph added by paragraph (d)(1) who are covered by group health plans contributed to or sponsored by employers with 1,000 or more employees and with respect to all individuals described in clause (ii) of subparagraph (A) of such paragraph;

(ii) on January 1, 1993, with respect to individuals covered by group health plans contributed to or sponsored by employers with 100 or more employees; and

(iii) on January 1, 1994, with respect to all other individuals.

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

deemed to be a separate regular session of the State legislature.

PART III—LOW-INCOME ELDERLY

SEC. 6221. 1-YEAR ACCELERATION OF AND INCREASE IN OPTION AMOUNT FOR BUY-IN OF PREMIUMS AND COST SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) OPTION UP TO 133 PERCENT OF POVERTY LINE.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended by striking "100" and inserting "133".

(b) REQUIRED 1-YEAR ACCELERATION TO 100 PERCENT OF POVERTY LINE.—Section 1905(p)(2) (42 U.S.C. 1396d(p)(2)) is further amended—

(1) in subparagraph (B)—

(A) by adding "and" at the end of clause (ii);

(B) in clause (iii), by striking "95 percent, and" and inserting "100 percent."; and

(C) by striking clause (iv); and

(2) in subparagraph (C)—

(A) in clause (iii), by striking "90" and inserting "95";

(B) by adding "and" at the end of clause (iii);

(C) in clause (iv), by striking "95 percent, and" and inserting "100 percent."; and

(D) by striking clause (v).

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) and, except as provided in paragraph (2), the amendments made by subsection (b) shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

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-

termining 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

to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Subtitle A—1-Year Extension of Certain Expiring Tax Provisions

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) $89,000 for calendar year 1991, and

"(B) for any calendar year after 1991, the applicable contribution base for the preceding year adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230(b) of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base de-

termined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section

3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENT.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each

place it appears and inserting "applicable contribution base limitation".

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

SEC. 7452. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1991.

(b) TRANSITION IN TAX RATES.—In applying sections 3101(b) and 3111(b) of the Internal Revenue Code to service which, but for the amendment made by subsection (a), would not constitute employment for purposes of such sections and which is performed—

(1) after December 31, 1991, and before January 1, 1993, the percentage of wages rate of tax

under such sections shall be 0.8 percent (instead of 1.45 percent), and

(2) after December 31, 1992, and before January 1, 1994, the percentage of wages rate of tax under such sections shall be 1.35 percent (instead of 1.45 percent).

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1992, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a),

the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1992, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insur-

ance benefits under part A of title XVIII of such Act for months beginning with January 1992.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

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

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit

and whose eligibility for such annuity or retirement benefit is based on a disability.".

SEC. 7453. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self employment;".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is 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 subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1991.

SEC. 7456. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

(a) IN GENERAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) of the Internal Revenue Code of 1986, revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1991".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 30, 1990.

SEC. 7457. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in

effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 7458. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

TITLE VIII—COMMITTEE ON GOVERNMENTAL AFFAIRS-CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 8004. COMPUTER MATCHING OF FEDERAL BENEFITS INFORMATION AND PRIVACY PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

(b) VERIFICATION REQUIREMENTS AMENDMENT.—(1) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance

with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(2) Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b–7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program de-

termines 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).

TITLE XI—VETERANS

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Subtitle F—Miscellaneous

SEC. 11051. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF TAX INFORMATION.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) CLERICAL AMENDMENT.—The heading of paragraph (7) of section 6103(l) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—

(1) USE FOR NEEDS-BASED PROGRAMS.—Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that

income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the

same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall notify individuals who (as of the date of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (c) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) DEADLINE FOR NOTICE.—Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) LIMITATION UNTIL NOTICE MADE.—The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.

SEC. 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.".

Calendar No. 992

101ST CONGRESS
2D SESSION

S. 3209

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. KERREY). 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 for the American people and a period 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 the 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 conferees. 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. Each and every committee of the Senate—and I am proud to report this, 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-

haps 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 growth in Medicare. Revenues of $142 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 burden 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 member, Senator DOMENICI, 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 on this package, it does not mean that we must forever hold our peace. 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 overtime in the gristmill of deficit reduction. I think all of us would agree that 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 BENTSEN 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 ROBERT DOLE, the distinguished minority leader, have together and in a bipartisan way designed a revenue package that is equitable 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 that in terms of progressivity it is, indeed, a far better plan than the original summit proposal that the summiteers brought back to this body.

The burden of sacrifice is spread much more evenly than that of the budget summit proposal. The summit plan, for example, would have increased tax rates 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 scale, the wealthiest 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.

So 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 citizen from the duty 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 our Government's ability to stand up to its responsibility. Foreign investors, those from whom we borrowed enormous sums of money over the past few years, are now looking elsewhere to invest their funds. Unless we get this Government out of the massive business of borrowing, interest rates will inevitably go up and economic stagnation will set in.

I do not have to remind anybody in this Chamber that we are now poised dangerously on the cusp of a recession, and we see ourselves at the very brink of war in the Middle East. The stock market has lost 20 percent of its value in just the past few months. The U.S. dollar in world markets is dropping to record lows. Sky-high oil has pushed up prices. And, once again, the tentacles of inflation are tightening themselves around our productive capacity.

For ills of that magnitude, I will have to confess that the budget agreement we are considering today is not a magic cure-all. But it is a very potent dose, I submit, of fiscal responsibility, a signal to one and all that this Government of the United States is serious about reducing its crippling deficit, serious about nursing its economy back to health. It is the kind of tangible agreement that the world financial markets have been waiting to embrace, a credible package upon which our own Federal Reserve, and Dr. Alan Greenspan, the able chairman, can now rely on and move to reduce interest rates.

Yes. There will be sacrifice. And I think it is high time that those of us in elective office started telling the American people the truth again. It has been the fashion over the past decade to say that we could have it all, that there would be no tomorrow, that we could mortgage the future of our childen, and we did not have to take any bad medicine ourselves.

That day is gone. Yes. We tell the American people that there will be some sacrifice in this package. But we tell them at the same time that it will be fair, that no American is going to be asked to make more sacrifice than another. We tell them that the wealthiest in our society are going to pay their fair share.

I say, Mr. President, that if we can implement this, if we can move this deficit reduction plan into place quickly before our economy deteriorates further, then we stand a good chance of receiving real benefits, a chance of receiving real substantial gains.

Lower interest rates, we all know, will put more money in the pocket of American working men and women. If interest rates fall by just one-half of 1 percent, and certainly that is a reasonable and logical expectation given the content of this legislation, then the average middle-class family could save $435 a year on their $100,000 adjustable rate mortgage. Compare this to the $297 cost of the Senate agreement to the typical middle-income family, and you can see that the vast majority of Americans clearly have something to again from the passage of this deficit reduction package.

This is the message that we must take to the American people. It is the message that we must consider ourselves today. We must convince the American people of the benefits we will all derive from a balanced and sound economy. The benefits we will all derive from lower interest rates, and the benefits derived from this agreement, will persist and endure a long time after the time of sacrifice has passed and has been forgotten about.

Mr. President, after many months of adversarial dickering, after many months of back and forth, after many months of partisan accusations, it is

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 anyone has been left out of 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 uncertain 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 was stopped cold in its tracks.

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 we in this 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 and the ranking member are 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 yield 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 to noon in doing so. I might say 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, and I hope that 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 creature 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, too, want to get on with things. 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 side.

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 partisan, 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 both Houses, we had intended more of 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 how many are going to vote for it on their side.

But it does not come to the floor of the Senate as a package of 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 partisan, 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 our ability to govern. I hate to say, 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 days, 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 affecting their part of this bill.

Frankly, we will 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 what they have 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 best to keep this a clean package, and we will confer with those committees and those Senators is due course about provisions that are extraneous and subject to what we call the "Byrd rule," which is a rule that says, essentially, matters that are really not deficit reduction can get taken out of here, and those who want them in have to get a super majority to keep them. That will occur in due course.

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 and we will 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 of the United States will pay more under this proposal than they do under the so-called Democrat package in the House. This bipartisan one imposes more taxes and, I think, in an orderly and reasonable way and somewhat more progressive upward than in the House package.

It does not have the removal of indexing of taxes for middle-income America. It does not permit bracket creep to start again. One of the most devastating aspects of the income tax for middle America was bracket creep with inflation. We did not adjust for inflation, and obviously we were collecting taxes we never expected because, with inflation, people's incomes were going up, but it was not meaningful, but the brackets never changed. We did that. The distinguished Senator from Colorado [Mr. ARMSTRONG] leaves that as his legacy, one of the most significant things we have done. The House did away with that for a year and changed the deductions for middle income a bit. We do not do that in this package.

Having said that, let me conclude that I hope we can keep this package basically intact and send it to the conference with a bipartisan attitude of getting something this weekend or early next week so that we do not close down Government in the United States because of our inability to get things done. I do not agree with those who think we ought to close down Government in order to push ourselves to do what we ought to do. I may be alone in that. I do not support it. It does not come as anything new to Members on my side. I do not see that as an approach. For one thing, the working people in Government are only a little tiny part of our expenditures. The expenditures of two-thirds of Government go on while we in a rather vindictive way furlough people who are supposed to be getting their paychecks.

Having said that, let me say that I will for now say nothing more about the progressive nature of this other than what I have just said in general terms. But as the debate ensues, I will talk about dollar numbers, how much more the higher income people will pay under this. I do not think it is punitive at all, but it is more than the House-passed bill for the higher income. I believe it is in a rather fair way. We have been told over and over that what we were talking about here on our side was not progressive. It is. They say that the wealthy did not pay their fair share, not more, but their fair share. That is wrong. It does.

Now, Mr. President, one last remark. When we speak of $40 billion in the first year, $500 billion over 5 years, assuming the new process reform, the enforcement mechanism, the new caps we are going to put on that are enforceable, the pay-as-you-go that we are going to insist on for entitlements, and all the other things that are going to be in the reform package, if all of this occurs, then people tend to ask, do we not have to pass something next year to carry it out? No. We have to keep the agreement which is enforced by caps and other measures and change the laws which are changed in this package so that expenditures that would have occurred automatically will not occur. And that is where you get the package.

A portion of it is discretionary and principally for defense. Defense is coming down. Some might say, is that real? I think for the next 3 years it is as real as anything we have done because, if we get the reform package in, we will have three caps in each of the next 3 years, defense, domestic, foreign. You do not mingle them and you do not exceed them. If you exceed them, it is cut back. That is how you get the discretionary savings. And even in the fourth and fifth there is a similar provision.

So, obviously, if I were writing my own budget, if I were writing a budget, I would not write this one, but nobody else would either. Everyone would have a different idea, a different plan, a different approach. And I am very comfortable with Senators coming to the floor saying how they would do it. But I jut 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 somebody's idea, somebody'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 yild.

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 bailout 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 headlong tax increase, $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 $116.2 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 defensible economic theory which says the correct 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 Keynsian 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 to 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 1932, following the collapse of the stock market and in the clear signs of recession, Herbert Hoover decided the best policy was to get the Nation's fiscal house in order by raising taxes. Mr. Hoover, 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 Great Depression, no one questions 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 too strong a word—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 levels, the deficit would fall by about $76 billion. That is, 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 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 tens of billions 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 significantly by the budget deficit, 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 irresponsible of them to accept 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 proposals to be advanced and adopted without the public knowing whose fingerprints were on them. The secret summiteers did not have the courage of their convictions to defend their ideas in public debate, so they sought the shelter of anonymity.

The agreement was presented to the Congress on a take-it-or-leave-it basis. The President and the Senate majority leader went on television to encourage the American people to voice their support for the package. The American people expressed themselves, all right. Well over 90 percent of the calls we received were in strong opposition to the budget agreement. Our experience seems to have been typical, and so, despite the exceptional efforts of the secret summiteers, the agreement went down to defeat in the House of Representatives. It was a take-it-or-leave-it deal, and the American people shouted: Leave it.

The package put together in the Finance Committee has been accurately described as the budget summit agreement with softened edges. In fact, the leadership of the Finance Committee took the budget summit agreement as its starting point and then began a committee minisummit.

The committee leadership has met numerous times, all behind closed doors. Members caucused numerous times, all behind closed doors. The package was then presented to the whole committee for discussion and informal markup, again behind closed doors, and with a clear leadership understanding that Member's amendments would be opposed—the fix was in.

These informal discussions are not necessarily or always bad. But there comes a point where public hearings, and public discussion and debate are essential to safeguard the democratic process. When the entire legislative process is done out of public view, it not only conflicts with our national values and traditions, but it breeds the kinds of legislative disasters for which the Congress is rightly scolded. The reconciliation tax bill the committee has reported out may turn out to be one of the best examples of a late-night, closed-doors disaster that we have seen.

The rallying cry of the tax-and-spend crowd has become: "Tax the Rich." Many people, though certainly not all, agree with the ability-to-pay proposition; that is, that the wealthy should pay a higher total tax relative to their income than should middle-income taxpayers and that middle-income taxpayers should pay more than lower income taxpayers. But it is fair to wonder if enough is not already enough.

As the table below describes, when measured by income levels, under our current tax system the top 1 percent of taxpayers earn 13.4 percent of all income and pay 24.8 percent of the Federal income tax. The top 5 percent of all taxpayers earn 28 percent of the total income and pay 44.8 percent of the tax. The top half of all taxpayers earn 86.4 percent of all income and pay 94.6 percent of the tax. A tax system in which the top half of all taxpayers already pay almost 95 percent of the tax while the bottom half pays about 5 percent is not merely progressive, it is punitive.

Income percentile	Percentage of total income earned	Percentage of total tax paid
1 percent	13.4	24.8
5 percent	28.0	44.8

Income percentile	Percentage of total income earned	Percentage of total tax paid
50 percent	56.4	84.6

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 includes a provision that reduces by 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 about 1.67 percentage points. 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 existing tax rate 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 8 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 just a convenient means to hit up higher 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, along with a 6.2-percent tax to fund Social Security. In each case, only the first $51,300 of wage income is subject to tax under current law.

Under the Finance Committee proposal, the wage cap for the HI tax is raised to $89,000. Since the employee pays all of his tax, and much or all of the employer's share of the tax, this proposal is equivalent to raising the income tax rate of a very large number of taxpayers from 28 percent to almost 31 percent, and another tax rate increase is slipped in through the back door to raise $19 billion.

The rich aren't the only ones offered the opportunity to pay for Congress' inability to restrain spending. For example, even though the price at the pump for a gallon of gas has increased over 27 cents since the Iraqi invasion, the Finance Committee has decided to raise 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 placed into the highway 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 of 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 disingenuous to count the increased inflow into the trust fund as deficit reduction.

The biggest tax increase on businesses 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 taxes. 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 budget buster of all—recession. 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 the greatest orgy of rich-bashing since Vladimir Lenin led the revolutionaries onto the barricades in 1917.

Broadcast talk shows now reveal 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 in the media, like Sam Donaldson, who was massively offended last Sunday because the new Senate tax proposal "only" adds $29 billion to the tax burden of those over $100,000.

But then Mr. Donaldson has never been one much troubled by facts, and apparently the public is in no mood for rational discourse in this already deeply poisoned debate. For anyone interested in the truth, the reality could not be further separated from the rhetoric.

If you doubt this, we ask you to consider the 1987 and 1988 income tax return data recently released by the Internal Revenue Service. Not only do the data show the massive concentration of the income tax burden on the top taxpayers, but they demonstrate conclusively that virtually all the growth in income tax revenues is now coming from the top 13 percent of the taxpayers, and nearly 77 percent of it is coming from those over $100,000. (See Table).

In 1988, total income tax collections rose by $47 billion over 1987, from $369 billion to $416 billion, a 12.7 percent rise—reflecting the strong, pre-Bush economy. Yet in that 1988 year, the taxes paid by the income groups under $50,000 (representing 87.3 percent of the taxpayers) rose by only $1.9 billion, or only 4 percent of the total increase.

Furthermore, that 87.3 percent of all taxpayers paid only 37.1 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: The real tax payments (after inflation) for the bottom 87 percent of all taxpayers fell by another 2 percent, on top of a 10 percent real drop 1981-87.

This means that 96 percent of the entire 1987-1988 increase was paid by the top 13 percent of the taxpayers, who accounted for nearly 63 percent of all income taxes paid. Their tax payments rose 21 percent in 1988, or a real rise of 17 percent. It is hard to imagine a more steeply progressive tax burden than that, or a more steeply progressive trend.

The bellyaching coming from average taxpayers over the alleged "tax breaks" for the rich represents an appalling level of ignorance from a class of taxpayers who have seen their income taxes go down massively (nearly 15 percent) 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 GNP grew less than 24 percent.

Indeed, in 1988 the 2.3 percent of all taxpayers over the income level of $100,000, paid 77 percent of all of the additional taxes collected in 1988 (over 1987), even though this 2.3 percent's total share of the tax burden is already a massive 36.4 percent. Their actual tax payments rose 27 percent real.

In plain English, the 1986 Tax Reform Act made an already intensely "progressive" income tax burden still more progressive, with new taxes collected from the rich at double even their already high share of the current income tax burden.

Indeed, the highest target of the Democrats' revenge, the 65,303 taxpayers with more than $1 million in income, who represent only 6/100 of 1 percent (0.06 percent) of all the taxpayers, not only paid 10.5 percent of all the taxes paid ($44 billion) but paid 41.3 percent of the total revenue increase in 1988!

This means that the Democrats and their allies like Kevin Phillips are engaged in the most astonishing and destructive, not to mention irresponsible, level of distortion on this issue, and the result could be catastrophic for economic policy.

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

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 his people—right down the economic toilet.

1987-88 INCOME TAX TRENDS

Income class	Revenue growth 1987-88 (millions)	Percent of total growth	Percent of taxpayers	Percent of total burden
Under $15,000	−$765	−1.6	43.0	3.3
$15,000 to $50,000	2,611	5.6	44.4	33.8
$50,000 to $100,000	9,018	19.2	10.4	26.5
$100,000 to $1,000,000	16,661	35.5	2.2	25.9
$1,000,000 and over	19,381	41.3	0.06	10.5
Total	46,906	100.0	100.0	100.0
Summary:				
Under $50,000	1,846	4.0	87.4	37.1
Over $50,000	45,060	96.0	12.6	62.9
Over $100,000	36,042	76.8	2.3	36.4

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, the Senator from Idaho raised the point—and I think a valid point—that this is perhaps not the most opportune time for us to be raising revenues given the state of the economy. This economy, according to most of the indicators, is either teetering on the brink of a recession or is, indeed, in a recession at the present time. So why should we be looking at a deficit reduction package today that would reduce the deficit by over $40 billion in fiscal year 1991 and by almost $500 billion over the next 5 years?

We do so, Mr. President, because we are forced to do so. We have absolutely no alternative. We are seeing a virtual explosion in the Federal indebtedness and in the deficit that this Government is now carrying.

Some of us approached leading representatives of the new administration as they came into office right after President Bush's inauguration and made the case to them that we needed to embark on a program of significant deficit reduction, and it needed to be done then—and now—when the economy was doing well, when the economy was expanding.

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 these same officials 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. Superimposed on top of that was the largest military buildup in the peacetime 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 serious deficit reduction. That is the reason leading 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 it would do; second, there is an almost unprecedented need for Federal borrowing to deal with the disaster that has occurred in the savings and loan administration.

So that is why we find ourselves now as we hang on the edge of a recession having to move in the direction of significant deficit reduction.

The distinguished Senator from Idaho was quite correct in his assertion that this is not good for an economy which is coursing downward, but I would submit that because of the failure of the administration to act 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 the deficit has 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 a par or 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 to finance this 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 shrunk.

He said the American people would not care if we had a sequester. I submit that the American people might very well change their minds 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 there are air collisions because of not enough air traffic controllers, and people perish as a result of that. There might be second thoughts when we go back to the days before meat inspections were in the factories and in the meat packing plants, back to the 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

inspectors there, then we would see that people were really starting to care.

What about lack of Government employees to get out the Social Security checks or the Medicare checks? Certainly, I think we would see the people beginning to care then. I suspect we would begin to see a lot of citizens beginning to care if they saw the military establishment in this country reduced by sequester by as much as 30 percent, while we have almost 200,000 troops now deployed in the Middle East.

So sequester is not a rational alternative for us at the present time. If we went to sequester, it would mean a sequester of well over $120 billion across the whole spectrum of the Federal Government.

The distinguished Senator from Idaho addressed himself to reducing Government spending. He said that he found that to be a more platable alternative than the package we have before us. But I noted not one word was said about reducing defense spending.

I submit to my colleagues that when you spend a dollar to buy a B-2 bomber, that dollar is just as valid as the dollar you spend for child nutrition programs. And the dollar you spend to build a nuclear aircraft carrier depletes the Federal Treasury just as much as the dollar you spend for defense. And the dollar you spend to buy 155-millimeter howitzers depletes the Federal Treasury just as much as the dollar you spend for Medicare for our older people. But not a word was said about reducing defense spending in this budget package.

I thought, Mr. President, it was sad irony yesterday when the word came that the President of the Soviet Union was receiving the Nobel Peace Prize, and a majority of this U.S. Senate voted to expend tens of billions of dollars of taxpayers' money to buy more B-2 bombers. Who in the world are we going to bomb with those things?

My distinguished friend also indicated that the Members of Congress asked for a summit; that we wanted to get the administration in a summit so there could be anonymity as to what the results of that summit agreement were.

Well, the facts are that the President of the United States requested the summit. The facts are that this Senator said: I do not want to go to a summit. The facts are that the Senate majority leader, Senator MITCHELL, indicated he would go to a summit only with great reluctance.

But when the President of the United States summons the leadership of this Congress to the White House to discuss the economic mess that this country is in, to discuss the fiscal crisis that threatens the very health of this economy, what do we do? Of course, you go to the White House to discuss those matters with the President, and if he wishes an economic summit, that is precisely what the responsibility of the leadership to accede to the President's request is. That is what was done.

But I submit that it was not the Congress or the leaders of the Congress who wanted the anonymity of a summit. No.

I strongly suspect it was leading figures in the administration, perhaps even the Chief Executive himself, who wanted the anonymity of the summit so that when the summit came out with a budget summit agreement that had revenues in it—which every sensible economist in this country knew had to occur and every serious student of Government affairs knew had to be a principal part of any summit agreement—I suspect that there were officials in the administration, and perhaps even the President, that wanted to say this is something that had some kind of an immaculate conception: "We had nothing to do with it."

It was the administration that wanted the anonymity of a summit agreement to do what they knew had to be done. Well, to the credit of the leadership of this Congress; to the credit of the distinguished majority leader, Senator MITCHELL; to the credit of the Speaker of the House of Representatives, Mr. FOLEY, they let it be known in no uncertain terms that they were willing to do their duty, but they wanted to have a sharing of the responsibility.

That is when the President finally, at long last, sort of slipped a piece of paper out from under the door to the waiting press, and said, "Oh, by the way; we are going to need some increases in revenue in this budget package."

Following that statement, then we saw the Chief of Staff rush over here to Capitol Hill to assure Members of the other party in the House of Representatives: Well, no, that probably was not the case at all. As if to say, "We did not want to do it, but the leadership, the Democratic leadership in the Congress, made us do it."

Mr. President, some statements were made about the tax policy: What sort of revenue policies we ought to have; who ought to be paying them. Just let me remind my colleagues of a few statistics.

According to the nonpartisan Congressional Budget Office, during the decade of the 1980's, the tax rate on the poorest tenth of our population increased by 28 percent, while the tax rate on the richest 5 percent was cut by 9½ percent. And when some of our colleagues in the House of Representatives try to call attention to that, they are accused of what? Class warfare.

I call my colleagues' attention to the fact that the bottom 30 percent in the economic brackets of this country were hit by double-digit tax-rate increases during the 1980's. Tax rates were increased on the bottom 60 percent of our population, and they were lowered on the top 40 percent.

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 skyrocketing 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 lot of areas, and who is a man, I think, of proven courage, not only on the floor of this Senate, but in other fields of endeavor, also, the leadership of this Senate, working in conjunction with the Finance Committee, its distinguished chairman and ranking minority member—I think they have produced a fair and progressive revenue package. Is it the one that I would have produced? No. I would like to have one that is more progressive. I would like to have one that raises the top bracket. I would like to have one with no gasoline tax at all. I would like to have one with no reduction in benefits to Medicare beneficiaries at all. But they have done the best they could in a bipartisan way, and I think it is a fine product. In the final analysis, Mr. President, I am going to support it.

The time has passed for us to come to this floor to try to convince the 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 some 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, Mr. 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, on balance, I would 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.

Mr. President, 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 DOMENICI, 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 bedevilment that besets us when we operate in this particular 11th-hour fashion.

With regard to the Senator from Arkansas' remarks, I would note that men convinced against their will are of the same opinion still. I can remember a dozen year ago when these same Senators complained about certain severe OSHA requirements. OSHA excesses more or less disposed of the former distinguished Senator from Wyoming, Senator McGee, because our colleague here, the present Senator, Senator WALLOP, depicted on TV how the OSHA crowd was going to require Wyoming ranchers to ride the range with portable toilets. The ad depicted a roundup, complete with Marlboro men, but instead of the cigarettes, you had a toilet bowl and tank wrapped around the poor horse's neck. As the animal went wobbling down the range, about to go head over heels, the announcer said: "That is the way Washington thinks we ought to round up cattle here in Wyoming. Vote Wallop." So do not wallop me with that OSHA nonsense again.

I want to join the Senator from Arkansas in opposing that provision. I do not see how it got out of the committee, but it has, and these things do happen.

Now, Mr. President, by way of opening remarks on this bill, let me note that we have heard this morning from our distinguished colleague from Delaware, the daddy rabbit of growth, the growth of deficits and debt, that is. That is the only thing that has grown in any meaningful terms. Deficits and debt, and debt and deficits, and deficits and debt.

We are told that when you find yourself in a hole, you should stop digging, but we have never seen, as the Senator said, a Republican who did not like a shovel. They continue digging furiously today. Here, after 10 years of wrecking the economy, they want to take another swig of that old deficit barleycorn and preach the old-time religion of growth, growth, growth.

For heaven's sakes, do not give us any more of this growth. It is killing us. It has been a nagging cancer all summer long, this so-called capital gains issue. For a year and a half, now, we have heard how that $5 billion measure is going to single handedly jumpstart the economy. We have witnessed grown men walking around hollering how we are going to jump-start a $5 trillion economy with a capital gains provision that, of course, over the 5 years, loses us $21 billion. What nonsense.

"We are going to have growth, growth." Do not ever tell us southern politicans about growth. We learned long ago how to carpetbag the North. The first requirement is that you pay your bills. You are not going up to New York, to Boston, to Chicago to visit captains of American industry, and try to lure them with visions of moonlight and magnolias. You're not going to lure them with promises like. "We are going to pave your road." No way, Jose. That's a lot of hooey.

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. I have been to the mountain top and seen 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. Heavens above, polls do not ever 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 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 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

recently one in the New York Times, describing our predicament.

As I have said we need a mini-Marshall plan for East Europe and Latin America and a maxi-Marshall plan here in the United States, because we have moved into the trade war where competitiveness is the name of the game. There is no sense of that in this Congress or in this town. There is no understanding of the problem from the President of the United States. Instead, he flies around the country trying to blame Congress. The debate is distracted by questions of who is rich and who is poor; and which tax is progressive and which is regressive. But we are not talking about America stepping up to the challenge of competition internationally.

So we need growth, yes, and the best growth measure is to stop the growth of interest costs. We are now into a vortex where interest costs are eating the Federal budget alive.

For the first time in the history of the United States, we are witnessing an international crisis in which the dollar is going down rather than up. The Europeans and Japanese do not think the United States of America is a safe haven for their money, and so the dollar goes down. In previous crises, the dollar always went up.

So the best way to achieve growth and straighten this mess out is to pay the bills. It is annoying, dismaying to me to have Senators come on this floor and start talking about growth, and how they are against taxes, because the pollster says that is what Senators have to parrot: Reelect me.

You will not find in the history of man the solution to a problem of this magnitude in a political pool. At the founding of the country, Ben Franklin said, "Let's put this proceeding in Philadelphia off the record if we are going to get a Constitutional Convention," because if you took a public pool back 200-some years ago, people were against the king, against strong government.

They were for the Articles of Confederation and against the Constitution. Everybody knew it. But the wisdom of the forefathers said, "Close the door, and let us not have any political pools, because we will never get a free people started."

We also hear fine preachments against waste, fraud, and abuse, and for cutting spending. Let us be clear right now that the President is agreeing to $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. They cannot find a rug big enough to sweep that one 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 hear about his son, Neil, anymore. We do not want to hear about the S&L Senators anymore. But there it is, another $100 billion in 1991.

So if you add 162 billion and 100 billion, you have 262 billion. And then add the trust funds that they are still trying to rob. The Senator from Pennsylvania calls it embezzlement. The Senator from New York calls it thievery. We have the gall to call it "hard," "tough" choices. "Hard," "tough" choices. Pain, pain; oh, I have pain. Nonsense. They have been out there at Andrews eating so much ice cream that they all gained weight; they got fat out there. One of my friends told me, "I have to go on a diet." They took good care of pleasure boats, the pleasure craft.

Mr. FOWLER. 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, 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 pollster 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. And add in Desert Shield, and 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.

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. The bills 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 $263 billion for Social Security, and no one dares to cut that. There are the trust fund. We would do well to stop them from robbing it, much less cutting it. So they are not going to cut it. In addition, $286 billion in interest costs are projected. So now, additing it all up, we have spending of some $1.50 billion. So even if you eliminate all 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 $200 billion.

So let us start talking sense. The American people have no idea abut 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—5-percent VAT tax, exemption food, housing, and health care. But they projected that out at the Congressional Budget Office. Even a VAT tax would take to the year 2021 to do the job.

So we have a serious, serious problem. They keep talking about the Democratic controlled Congress. Well, I saw Sununu this morning. He started palavering that political nonsense. He is the one controlling this Congress. The White House is watching Congress at every move. Why did we not get child care, clean air, CAFE standards, the textile bill? The Republicans over there, so well disciplined, upheld the FSX veto, the Hatch Act veto. We have had 15 up and down vetoes, and you cannot override them.

They have the control. So do not talk about a Democratic control. It is controlled at the executive level. He has the bully pulpit.

So don't talk any more about a Democratic-controlled Congress. We were ready last Thursay to take up Labaor, Health and Human Resources. We had to wait for the minority to say when we could take it up. We waited all Thursday evening; we waited all Friday morning, and Friday afternoon. We were in here till midnight. I was here. We could have easily taken it up. But the minority tells you if you can even vote on Friday and on Monday. They just put two or three Senators on the floor, and they all go about politicking. We are a minority-controlled Congress.

I am against the filibuster rule. That is how strongly I feel about it now. We do not need extended debate. We can have, 1 hour, 2 hours. I came from the

South, and we relied in the old days on the filibuster. My senior South Carolina colleague is the national champion.

But I can see now rather than making us the most deliberative body, the filibuster has undermined true deliberation. We have to change and move into the modern world of television.

Let us look this budget crisis in the face and understand it. In a capsule, Mr. President, we have trebled the national debt. The national debt right now is $3.2 trillion. It was $907 billion when President Reagan took office. It took all the previous Presidents, Republican and Democrat, 192 years of our history, all the wars, revolutions, civil, Spanish-American, World War I, World War II, Vietnam, Korea, all the wars, and we got our debt at a little over $900 billion. Now we are at $3.2 trillion after one President, plus one Vice President who is now President.

We added up all the new spending programs that have been proposed. We took Senator KENNEDY's health program for 1 year.

We took Senator DODD's child care program. We took DANNY QUAYLE's go-to-Mars program; we took all the research programs; we took all the infrastructure programs, and it added up to only $19 billion. Yet we spent $27 billion this past year for nothing, just for added interest on the debt.

As I said, interest costs are now up to $286 billion. The House passed a budget for defense, of $283 billion.

They were saying that in several years interest cost would exceed defense. It already has. The interest costs exceed the defense budget.

Interest is eating us alive. We have gone from the biggest creditor to the biggest debtor nation in the world. The Europeans do not anymore consider the United States a safe haven. The dollar value is going down. We do not have a trade policy. We have a trade deficit of $100 billion plus each year. And we have basic institutional problems with the banks, the S&L's, the insurance companies, real estate, and right on down the list.

Incidentally, if this keeps up, by the next quarter—in the first part of December—we will have had two quarters of less than 1 percent growth, and you can then set aside Gramm-Rudman-Hollings. We put that proviso in the law. So we will have the technical recession I am fearful of, and that will be our refuge.

U.S per capita income is actually declining for the first time since World War II. And Federal spending is over $400 billion more than we are taking in.

The problem, then, if you are going to try to tackle it over 5 years, is not a $500 billion problem. The Comptroller General of the United States last month said to the summiteers it was $1 trillion problem. But the Congress, along with the President, said, we can solve the problem by disregarding half of it.

With this $1 trillion problem, that is why the Senator from South Carolina keeps counseling freezes and a VAT tax. Heavens above, I am not advocating this, because I like taxes and 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 have not messed 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, poor, for everyone. All of America is going to have to pitch in on this one and 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 sums up not what I intend to offer 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 frontiers," then compare it to the most memorable line from George Bush's inaugural: "we have more will than wallet."

"We have more will than wallet." How ironic! In 1990, the United States stands as the world's only remaining superpower. We are the wealthiest Nation on the face of the Earth, endowed with unparalleled natural resources and the 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 somebody buys stock, 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 CAFE standards, and it was vetoed. That is why we did not get even the beginning of an energy policy. The President put troops in the sands of Saudi Arabia but killed a CAFE 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 a fellow 100 yards offshore, and you throw him a 50-yard lifeline and brag 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 skyrockets to $253 billion. By 1995, the last year of the plan, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this plan, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this bill.

There we go again, the same old smoke and the same old mirrors. The bills economic assumptions are basically sound for 1991, but the assumptions for 1992 through 1995 really put the rouge on old "Rosy Scenario." Consider 1992, when OMB says we will have robust GNP growth of 3.8 percent and interest rates at only 5.7 percent. Or consider 1995, when OMB promises us 3.5 percent economic growth and 4.2 percent interest rates. These are just not in the real world.

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

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. At the same time, 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 spending by the Resolution Trust Corporation. 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 political problems by keeping the S&L mess out of sight and out of mind.

They say, hard choices. They say, smoke and mirrors. But there is no truth to this. More to the point, Mr. President, this bill eliminates the function to the Congressional Budget Office, it eliminates the practical role of the Budget Committee, and it eliminates Gramm-Rudman-Hollings.

I was bemused at the Budget Committe markup that every one of my colleagues on the Republican side said that we have to have reform of the process. The distinguished ranking member and former chairman, the Senator from New Mexico, said if he does not get this process, count him out.

Mr. President, this reconciliation bill is especially shameful in that it fails to address our changing national priorities. During the last year, our Nation has moved from the cold war to the trade war. We have a crying need for new investments in education and infrastructure in order to get our country moving and competitive. This bill offers a martial plan, not the domestic Marshall plan we desperately require.

I can tell you that the extremely low spending celings 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. Take your pick from the Sununu veto, the Dole veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator DOLE, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

Meanwhile, the Senate Budget Committee will be reduced to automatic pilot. It will be stripped of any meaningful role in establishing budget priorities, and will quickly fall into irrelevance.

As I said, Mr. President, this is a sure-fire formula for a deadlocked Congress and a do-nothing Government. That may be just fine in the eyes of the President without an agenda. But America deserves an agenda, and a leadership willing to pay for it.

Hopefully we will get out of this confrontation in the Middle East without further loss of life. I do not think Kuwait is worth it. Meanwhile, this bill officially kills any idea of a "peace dividend." Gone are the predictions of DOD's budget being pushed down toward $250 billion over the next several years. What's more, the cost of Desert Shield is not included under the DOD budget cap—it does not count against DOD's $292-plus billion spending limit. In other words, instead of a peace dividend to fund urgent domestic priorities, this bill awards the Pentagon a "war dividend" by exempting it from significant cuts and giving DOD carte blanche in the Persian Gulf.

Returning to the matter of the triple-veto provision in this bill, I would note that there have been those who have been very, very careful to stick up for the prerogatives of the congressional branch, to not weaken its power. They have opposed the line-item veto. I can tell you right now you 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. If you can win 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 the hand. They say to CBO we do not want to hear from you. Just look at the so-called leadership amendment. It says OMB will be 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 envisions 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 said we cannot 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. Why not instruct 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 would consider it in the open. We debated taxes in the open, in markups in the Budget Committee.

But instead they went to the summit and in secret all pledged not to discuss the deal in public, and I can see why. As a result, 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 and that offers some promise of actually 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, and it displays all the same warts and deformities of the earlier version. It continues to ransack the Social Security trust fund. It puts spending for the S&L bailout off budget—out of sight and out of mind. It leaves defense spending virtually untouched and sacrosanct, while hog-tying domestic discretionary spending in a 3-year-strait-jacket, meaning that we can forget about any new initiatives to improve education, to rebuild infrastructure, to boost competitiveness. This package is

all pain and no gain. It raises the debt limit by $1.9 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 have sought to be constructive, but 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 efforts, 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 rightfully 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." Ours is a balanced Government 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 among us, 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 this deficit is equitably shared across all economic levels, and I am talking particularly about that sixtenths 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 process 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 as they have over the last decade. They have East Germany to be concerned about now and Eastern Europe. Japan's stock market has been in a free fall, the country has taken a tremendous loss—they have problems in their banks, add overinflated real estate. We understand that. The Japanese do 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 recriminations, further loss in our capacity to govern. If we fail to act and have a sequester, giving us 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, differing views 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. But 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 billion. Where the summit agreement had them paying a 30-percent premium on part B of Medicare, this package cuts it back and continues 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, deductables, and as payments for Medicare services.

In addition, we expanded Medicaid coverage for low-income children—a national priority when are 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 2-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, proposes an amendment numbered 3013.

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:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURIVING SPOUSES.—There is hereby imposed on the taxable income of—

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

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,050.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,400.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—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, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) 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:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150."

(b) 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(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATED.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPTIAL 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) taxable income reduced by 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 DEDUCTION.—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."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

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

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989". (C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by subetituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

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

(G) Clause (ii) of section 135(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

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

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461A. 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 "21 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. 7461B. 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 VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

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

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. 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—

"(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 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 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

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 4093(c) shall be 2.5 cents per gallon.

SEC. 7461D. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 13951), 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. 7461E. 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 equitably 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 $6.6 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 $10.6 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 if 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 spendings 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 will be 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 CONRAD 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 to $100 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 45 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 70 percent in 1980 to 28 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 $200,000.

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.

Utimately, this amendment is much fairer to all Americans.

Mr. President, I yield the floor.

Mr. BOSCHWITZ. Mr. President, I say first to my friend, the distinguished senior Senator from Tennes-

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 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 other trust funds 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 taxes have become 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 there 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 perhaps 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. So that makes the situation even worse.

I pointed out in a talk a week ago that even if the President's summit package had been enacted, the national debt would have gone on up in the next 4 or 5 years from its present lofty heights of $3 trillion to over $5 trillion.

I think the worst mistake we are making here in toto is the American people are being led to believe that had 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 fails, 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 39 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 $12,659.

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 where it has grown. Let us see what has caused these deficits. 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, as well as is domestic discretionary spending, which I want to get around to shortly.

This line on this 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. 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: 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—$326 billion below inflation.

While entitlements went up $599 billion over inflation, and defense went up $569 billion over inflation, domestic discretionary spending was cut $326 billion below inflation. Foreign operations almost held 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. That was out of a total budget of $678 billion.

In other words, domestic discretionary—what we spend for education, job training, law enforcement, bridges, mass transit, railways, et cetera—constituted 23 percent of the total budget in fiscal year 1981—almost a fourth of the total budget—$157 billion out of $678 billion.

Ten years later, what had happened? The whole budget had grown to $1.434 trillion by fiscal year 1991, while domestic discretionary grew from $157 billion to $171 billion. So while the entire budget by fiscal year 1991 grew $756 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 pitful 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.

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, GRH 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 further up clockwise, defense, 23.4 percent. That includes 1.5 percent for foreign operations, the two together making 23.4 percent. And then, finally, back to our little runt puppy, domestic discretionary spending, which a lot of people around here still want to cut. This little fellow has been on the operating table for 10 years, under the knife; yet, there are those who want to cut on it more.

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 research, and so on.

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 each of which there has been 20,000 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 in excess of 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 domestic 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 offsystem, 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 in the cost.

According 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 $50.7 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 8,600 round trips to the Sun, which is 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

Federal share would be $25 billion; $25 billion out of the $40 billion would be for the Federal share. The fiscal year 1991 baseline for Federal highway spending was only $14.6 billion. In other words, it was $10.4 billion below the amount required for the Federal Government to meet the $25 billion share of the $40 billion annually that, according to the Department of Transportation, would be required to deal with the existing capital needs for highways.

The poor and neglected state of the Nation's highways and bridges is a drain on the Nation's productivity. It is estimated by the Department of Transportation that the American people waste 1.38 billion gallons of gasoline every year and waste 1.2 billion hours every year because of traffic tieups and traffic congestion. And each of these figures is estimated to grow to over 7 billion gallons of gasoline and 7 billion hours of time wasted on the highways by the year 2005.

Let us see what our failure to invest in the Nation's physical infrastructure means in comparison with the nations that do make vital public investments. Let us look at the link between public investments in infrastructure and productivity of workers.

Over a 12-year period, 1973 to 1985, we will 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 invested 2.5 percent; Italy invested 2.7 percent; and Japan invested 5.1 percent. Look at it again. Japan invested 5.1 percent of its gross domestic product in 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 2.3 percent; the then Federal Republic of Germany invested 2.5 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.

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.

Why 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 in need of repair? 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.

Mr. GORE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. GORE. Mr. President, I rise only for a brief comment.

Mr. President, there was just a major study by one of the leading technical institutes of higher education in the United States, which focused on the precise point the distinguished President pro tempore is making at this very moment. A team of management analysts, economists, and scientists joined forces to analyze all of the factors that can be said to influence national productivity growth in nations around the world.

This is a controversial field of study, but it has grown increasingly sophisticated in recent years. And this particular team ended up by identifying as the one factor most influential in determining the relative rate of productivity growth in nations around the world, the level of nondefense public investment, such as in infrastructure.

I have been one who has argued that we should expand the definition of infrastructure to include not only roads and bridges, as has been the common definition in the past, but now fiber optic cables and information infrastructure and the like.

In any event, I was intrigued by this study and the close correlation between the conclusions of this team of experts and the point being made by the distinguished President pro tempore, which just now provoked this brief intervention.

I thank my colleague for his courtesy in yielding.

Mr. BYRD. I thank my distinguished colleague from Tennessee for the emphasis he has placed upon the importance of non-defense public investment and how it relates to productivity growth.

Let us take now the human side of infrastructure. This chart indicates the relative standing of the United States among a total of 16 nations, in respect to education spending—grades K through 12, for the year 1985.

We do very well with post secondary education. Students come from other countries to the United States to study. But from K through 12, we are cheating our kids. On this chart, we find that in K through 12 spending, as a percent of gross national product, in 1985 the United States ranked 14th in a list of 16 nations—14th—spending just 4.1 percent of the gross national product. The lowest was Ireland with 3.8; and Australia, 3.9. The rest of the countries spent a higher percent of the gross national product on children's education from kindergarten through the 12th year.

Let us 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. 8 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, with only 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 Hungary—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 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-

nually 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 and foreign students. The red coloring represents the projected demand for science and engineering Ph.D.'s showing that the year 2006 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 meet only a little better 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. I do not expect to ever 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 eyeshades, and they looked at figures and 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 there, 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 eyeshades, and, in addition to discussion the figures, the targets, the outlay levels and all of those 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 eyeshades, away from a total concentration on figures and targets—important though they are—using pencils and erasers, and cutting a little here and a little there, meeting this Gramm-Rudman Target, and meeting that 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 if something 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.

Sampson 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.

Elijah, 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 on dry land. The incredible American built shining, massive, bridges that glimmer in the Sun, that span the Mississipi, the Missouri, the many great rivers of this country.

It took Moses 40 years to lead the Israelites out of Egypt and bring them 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, around 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 put a man on that Moon and brought him back to Earth safely gain.

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 of this Nation, standing in soup 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 too many 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 descendents."

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 and built a great nation. They 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 study and to learn and 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, bad 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 threating in the Middle East and a recession looming just over the horizon. It is time to stop posturing and pretending. It is time to stop all of the glib talk. It is time to do our duty.

We have almost 200,000 men 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 theirs? 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. PRYOR], 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 our children. We talk about what is good for us politically or what would please the special interest groups. We are governed, we are owned, we are controlled; we are little men, controlled by special interest groups in 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 I was 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 heard and their elected representatives would no longer be cowards. That is what we have seen right at work here in the legislative branch of both Houses, political cowardice—speaking to the galleries, posturing to the cameras. Everybody has his own plan. I have a plan. He has a plan. She has a plan. And every one of us knows that my plan will not get 25 votes. His plan will not get 30 votes. Her plan will not get 50 votes. But we all have plans. And we all realize down deep in our hearts that if we get a plan through these two Houses, that will be signed by the President of the United States, that plan is going to have to have votes from both sides of the aisle.

It is tough. It is difficult. But that is what we signed on for. The American people think we are wimps. And they are right.

We knee-jerk to the drumbeats of the pressure groups, the special interest groups. Each of us tries to please this special interest group or that special interest group.

That is not to say that some of the special interest groups do not represent the views of a great many people in this country; it is true. But until the American people wise up and become awake to the fact, the bald fact, that the special interest groups are calling the tune and the American people are paying the fiddlers—you have to pay the fiddler when you call the tune—the American people are going to continue to get the shaft.

(Mr. GORE assumed the chair.)

Mr. BYRD. So our boys are in the sands of the deserts—Desert Shield. I refer to what we have before us as deficit shield. Desert Shield; deficit shield.

Are we going to respond to the needs of our children? In all of this talk, as I started to say a moment ago, I do not hear anyone talking about their grandchildren. Everybody is thinking about how he is going to be affected out there in the campaign. We listen to the drumbeats of the special interest groups. What about the voices of the voiceless—our grandchildren, our children, our great-grandchildren? Are they represented here? They are voiceless.

We are passing on this tremendous debt and these deficits to the children and grandchildren who are not even knocking yet, knocking at the gates. They are being unheard of and unthought of.

We should remember them, think of them, and perhaps we will all stand a little straighter and a little taller and be a little more courageous. And we will pay less attention to the special interest groups if we listen and try to hear the faint whisper of the yet unborn or those who are our children or grandchildren today. They cannot speak here.

We are told in the Scriptures that who among 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; or if he should 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. And let us put out of our minds and our 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 their 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 predicament in which this country finds itself, I believe they would be willing to be taxed a little more for the sake of their country.

The President had the courage to come out and say that he would support a tax increase. We have all made our glib statements and our political speeches about taxes—nobody wants to vote for taxes. I do not want to vote for taxes.

But as I said to Mr. Reagan in 1981, you cannot have a 3-year 10-percent-per-year tax cut, increase defense astronomically, and balance the budget all at the same time. Now, we cannot deal with this deficit, and it is getting worse and worse and worse, with the interest payment this year at $189 billion. That does not buy a single textbook; not one. That is the interest on the national debt. And it is going higher all the time.

Ten years ago it was $69 billion. Today it is $189 billion; $189 for every minute since Jesus Christ was born. That is the interest on the national debt.

I believe that if the American people were told the truth so that they understood the deficits and the national debt, the terrible things that are afflicting our country, they would be willing to give their share to deal with the problem. And we owe it to them to tell them the truth.

To my colleagues I say—to the distinguished Senator from Alaska [Mr. STEVENS]—a fine Senator, a Senator who has courage and backbone. I have seen him stand up in this Senate many times when he did not have many Senators standing with him. But he took a stand. The American people should be told the truth.

Esther, in the Old Testament—I will not tell the whole story; anyone can go to the Scriptures, and find in the Book of Esther where Mordecai, her cousin, said to Esther, "who knoweth whether thou art come to the kingdom for such a time as this?" I say to Senators, "Who knoweth whether thou art come to the"—Senate—"for such a time as this?"

This is a time when the country needs men. I will not take the time to recite the poem by J.G. Holland: "God give us men * * *"

Lycurgus the Lawgiver said it best when he said, "That city is well fortified which has a wall of men instead of brick."

I can understand why the American people are put out with the Congress. So many of us foul our nests; we badmouth the Congress; we run against the institution.

As one who reveres the history of this institution, I have seen men and women rise to the need of the moment in this Senate, during my time here. And I believe they can and will again.

Let us not be fooled by the glittering gewgaws of some of the amendments that are called up. Let us stand with the leadership in opposing the 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 conference 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.

Continuation of Senate Proceedings of October 17, 1990, Issue No. 140; and Proceedings of October 18, 1990, Issue No. 141.

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Senate

(Legislative day of Tuesday, October 2, 1990)

OMNIBUS BUDGET RECONCILIATION ACT OF 1990
(Continued)

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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 35 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 provisions 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, primarily 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 disposed 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 consistently 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 resulting 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 included 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 necessary to override the veto. The reality is that we cannot. So, as is so often the case in life generally and certainly 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 emphasize 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 prevent the adoption of a more progressive tax structure which would result from the committee bill now before us and from the results of the conference.

And, remember, we are going to conference 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 amendment 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.

AMENDMENT NO. 3015 TO AMENDMENT NO. 3014

(Purpose: To change the allocation formula)

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 9½-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 RECORD 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 deep staying over there in the hot sun; 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.

U.S. SENATE,
Washington, DC, September 18, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

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 1989 which placed a one year moratorium on the implementation of the proposed regulation. In February of 1990, twenty-two Senators joined in writing a letter to Secretary Sullivan requesting that he review and reconsider his proposal to change the regulations with respect to the medically needy income levels. 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 133⅓ percent of the amount "reasonably related to the highest money payment which would ordinarily be made under the state's AFDC plan to a family of two without income and resources." Thus, even if a state has 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 policy.

Lloyd, we would very much appreciate your including a provision in this year's reconciliation legislation that would protect the single person medically needy income level in those states which, as of June 1, 1989, had relied upon 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 provsion is very similar to one adopted in section 4106 of Public Law 100-203, 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 requesting a cost estimate 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,

ALAN CRANSTON
PATRICK LEAHY.

THE MEDICAID MEDICALLY NEEDY PROGRAM

Mr. LEAHY. Mr. President, I want to join Senator CRANSTON 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 is good news for the 2,000 low-income and disabled Vermonters whose Medicaid benefits have been threatened since the administration requested a change in the income tests last year.

In its fiscal year 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 Medicaid medically needy program.

The medically needy program covers individuals who are not eligible for cash assistance under the Mediciad 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 133⅓ 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, receiving medical care under 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 this year to permanently resolve the issue.

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 Chairman BENTSEN and his Committee for including the language Senator CRANSTON and I drafted. It will protect the single person medically needy income level in those 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 people access to disability 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 rightly allows States to continue providing Medicaid benfits to persons needing urgent medical care, until a final decision is handed down by SS. This is absolutely essential in 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 will not face a 1-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 Medcaid 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 Secuirty 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.

VETERANS PROGRAMS

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 committee's jurisdiction sufficient to reduce outlays for veterans' programs by $620 million in fiscal year 1991 and $3.35 billion in fiscal years 1991-95.

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 $6.059 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 60 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 those currently engaged 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 disabling.

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.

Tenth, in section 11022, eliminate vocational rehabilitation benefits for veterans with disabilities rated 20 percent or less.

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 regular matches of Social Security and State data on deaths with certain VA beneficiary data in order to identify erroneous 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—as to which I was seeking further information at the time we submitted our report. Under current law, direct or primary effects of willful misconduct may not be compensated as service connected. However, under VA regulations—section 3.301 of title 38, Code of Federal Regulations—organic diseases and disabilities which are a secondary result of the chronic use of alcohol or of drugs are not considered to be caused by willful misconduct. The committee legislation is designed to change that result.

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 that my letter and 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, DC, October 9, 1990.

Hon. EDWARD J. DERWINSKI,
Secretary of Veterans' Affairs,
Washington, DC.

DEAR ED: During recent consultations between the Committee staff and VA officials concerning Administration suggestions for legislation to comply with the deficit-reduction requirements of the expected budget agreement, the Department provided a briefing paper (copy enclosed) describing VA's proposal to eliminate disability compensation for conditions that constitute secondary efforts of willful misconduct. The briefing paper raises a number of questions. I am writing to 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 as to 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 being 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 bar benefits based on AIDS secondary to drug abuse." Does that statement accurately reflect the Department's policy regarding the interpretation and implementation of the provision? 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 constraints inherent in the current budget process. I greatly appreciate the cooperation you and other Department officials are extending, in providing information and technical consultation to the Committee concerning this and other deficit-reduction proposals.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

Enclosure.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, October 15, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

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. DERWINSKI.

Enclosure.

DEPARTMENT OF VETERANS AFFAIRS VETERANS BENEFITS ADMINISTRATION COMPENSATION AND PENSION SERVICE

I. Issue: To respond to letter of 10-9-90 from Sen. Cranston 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. Venereal 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 to enjoy its intoxicating effects is willful misconduct if it results in disability. A 1964 Administrator's decision made a distinction between disabilities which are the primary result of drinking (for example, automobile accidents) and the remote, organic, secondary effects (for example, liver disease). As a result of the second decision, regulations were promulgated which permit the grant of benefits based on the secondary effects. The same principles were extended 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 1954 Administrator's decision.

IV. Questions from Sen. Cranston's letter (paraphrased):

Question. If the proposed change is enacted, will you adopt a principle that long-term behavior patterns that result in cumulative harm to one's medical condition (such as use of tobacco) constitute "willful misconduct" and how far would that principle extend?

Response. At some future date the issue of the known secondary effects of the use of tobacco, or other unhealthful behavior, could well rise to the level of concern associated with alcohol and drug usage 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. Certainly the similarities and differences between the condition(s) under discussion and alcohol and drug use would have to be considered in the light of the law as it existed at that time. We have no intention of addressing the general issue of "unhealthy behaviors" at this time, with or without the proposed change regarding willful misconduct.

Question. If no new principle is being proposed, how would the distinction be drawn between organic diseases resulting from chronic use of alcohol and diseases resulting from other unhealthy behaviors?

Response. If changes are made in the statutory language so as to exclude disabilities secondary to willful misconduct, 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 105, 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 through sexual activity cannot be denied, without regard to the question of secondary effects. AIDS contracted due to drug usage, 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 sexual activity or otherwise) 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 origin, no misconduct determination need 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 though 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.

GASOLINE TAX

Mr. MITCHELL. Mr. President, and I say to Members of the Senate, there will be no further roll call votes this evening. The Senate will be in tomorrow and on the bill at 9 a.m. so that we can complete action on this measure in sufficient time tomorrow to permit us to go to conference tomorrow. Therefore, Senators should be aware that rollcall votes and possible early in the morning and throughout the day. Mr. President, I suggest the absence of a quorum.

Mr. GORE. Will the leader withhold of yield?

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. METZENBAUM. Will the leader of the Senate yield for a question?

Mr. MITCHELL. Certainly.

Mr. METZENBAUM. 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 is 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 it is not, so 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 quourm call be rescinded.

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

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Senate

(Legislative day of Tuesday, October 2, 1990)

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,
Washington, DC, October 15, 1990.

on. JIM SASSER,
hairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I hereby submit the atutory language implementing the recnmendations of the Committee on Fiance for purposes of the reconciliation bill rovided for in H. Con. Res. 310, the concurnt resolution on the budget for fiscal year 991. Also enclosed are materials which exlain these provisions along with a recomendation of the Committee concerning the idgetary treatment of the social security rogram.

These statutory provisions will reduce outys for programs within the jurisdiction of ie Committee on Finance by $4.2 billion in scal year 1991 and by $52.7 billion over scal years 1991-1995. The revenue provions will increase Federal receipts by $17.3 llion in fiscal year 1991 and by $142.1 over ie five year period. As directed by the idget resolution, the Committee on Fiance is also submitting statutory language hich will provide additional borrowing auiority under the statutory debt limit in an nount 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.—

Present law

States may collect child support arrearages of at least $500 owed to non-AFDC families through the Federal income tax refund offset mechanism. This provision expires at the end of 1990. A similar mechanism is authorized permanently for AFDC 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 out of income tax refunds otherwise due to non-custodial parents. The minor child restriction would be eliminated for adults with a current support order who are disabled, as defined under OASDI or SSI. In addition, the offset could be used for spousal support when spousal and child support are included in the same support order.

The provision would take effect on January 1, 1991.

Budget impact (in millions): 1991, $1; 1992, $1; 1993, $2; 1994, $2; 1995, $3; 5-year, $9.

2. EXTENSION OF INTERSTATE CHILD SUPPORT COMMISSION (SECTION 6002)

Present law

The Family Support Act of 1988 established the Interstate Child Support Commission to report to Congress no later than May 1, 1991 on recommendations for improvements in the child support enforcement system and the Uniform Reciprocal Enforcement of Support Act. The Commission expires on July 1, 1991.

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 effective in the eighteenth month after the date of enactment.

(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.

The provision would take effect for months following the month of enactment.

(c) Treat Certain Royalties and Honoraria as Earned Income (Section 6012)

Present law

Under present law, royalties received are considered unearned income under the SSI program unless they are from self-employment in a royalty-related trade or business. Honoraria are also considered unearned income. This results 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 rendered would 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.

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

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 appropriate to the disability of the child evaluate the child's disability for purposes of determining eligibility for SSI.

The provision would take effect in the month beginning 6 months after the date of enactment.

Budget impact (in millions): 1991, *; 1992, 2; 1993, 2; 1994, 2; 1995, 2; 5-year, 8.

3. Concurrent Applications for SSI and Food Stamps (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 concurrent applications for the SSI and food stamp programs.

The provision would take effect on the date of enactment.

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

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 these agencies for the reasonable and necessary costs of the vocational rehabilitation services that are provided to recipients under certain specified conditions. Reimbursement is not allowable with respect to services provided to individuals who are not receiving cash benefits but who are eligible for Medicaid benefits because they are in "special status" under 1619(b), are in suspended benefit status, or are receiving Federally-administered State supplementary payments but not Federal SSI benefits.

Proposed change

The provision would implement a recommendation of the Disability Advisory Council to authorize reimbursement for vocational rehabilitation services provided to individuals who are not currently receiving Federal SSI benefits but who are in "special status" under section 1619(b), 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.

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

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

Present law

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, 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 intervening trustee), the trust is not considered a resource.

Cash payments made to an individual, including those from a trust (regardless of whether the trust is considered a resource), are considered income in the month received. Noncash payments (i.e., actual food, clothing, or shelter) are also considered income. However, there are special rules under which noncash payments are presumed to have a maximum value of one-third of the Federal SSI monthly benefit amount, plus a $20-a-month income exclusion. If a person can show that any in-kind support and maintenance provided is less than the "presumed value," the lesser amount is considered income. Thus, any cash payments or noncash income for food, clothing, or shelter affects SSI benefits and eligibility status.

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 certain non-cash contributions to a recipient would not be counted as income. In addition, the Secretary of HHS would be required to inform the family of a child who is awarded a retroactive payment as the result of the decision of the Supreme Court in Sullivan v. Zebley that the family 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.

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

Part III—Aid to Families with Dependent Children

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

Present law

Under section 402(a)(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 family composition during the prior month; and (2) estimates of the income and resources anticipated in the current or future months. With the approval of the Secretary, a State may select categories of these families to report at less frequent intervals, if monthly reporting is not cost effective.

AFDC eligibility and benefits 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 402(a)(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 in the current 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 families, 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 retrospective 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.

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

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 any 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 or amount of AFDC benefits, a child receiving foster care maintenance payments under title IV-E would not be regarded as a member of the family, and the income and resources of the child would not be counted 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 amount of AFDC benefits, and the child's income and resources would not be counted 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 amount of AFDC benefits, and the child's income and resources would not be counted as the income and resources of the family unless this would result in lower benefits for the family.

The provision would also move the section 478 provision, as amended, from title VI-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.

Budget impact (in millions): 1991, *; 1992, 1; 1993, 1; 1994, 1; 1995, 1; 5-year, 4.

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

Present law

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 under the AFDC program. For example, the use of the term "legal guardian" in the first instance is irrelevant since, even if such a guardian were appointed, the child would not be eligible for AFDC unless living with a relative specified in section 406 of the Social Security Act.

The use of the term "legal guardian" in the second instance is also inappropriate in the context of the AFDC statute. Unlike the parent-child relationship, legal guardianship has not been a basis for attributing income to AFDC beneficiaries. Using legal guardianship as a source of attributed income in three-generation families creates unequal treatment under the program. For example, if a minor child is living with an aunt who is her legal guardian, the aunt's income is not automatically attributed to the AFDC beneficiary; however, if the minor has a child, the guardian's income is included in the AFDC determination for the minor and her child.

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.

4. Reporting of Child Abuse and Neglect (Section 6023)

Present law

Under current law, both the title IV-A (AFDC) and title IV-E (foster care and adoption assistance) State plan requirements stipulate that State agencies must report to appropriate court or law enforcement agencies instances of a child receiving program aid who is residing in a home that is unsuitable because the child is subject to abuse, neglect or exploitation (Sections 402(a)(16) and 471(a)(9) of the Social Security Act).

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 maltreatment 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* 1992* 1993* 1994* 1995* 5-year,*.

5. Permissible Uses of AFDC Information (Section 6024)

Present law

Section 402(a)(9) of the Social Security Act restricts the use of disclosure of information about AFDC applicants and recipients to purposes directly connected with: (1) the administration of the AFDC program or several other specified Social Security Act programs; (2) any investigation, prosecution, or criminal or civil proceeding conducted in connection with such programs; (3) 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, the foster care and adoption assistance programs, to the list of programs for which information about AFDC applicants and recipients may be made available.

The provision would take effect on the date of enactment.

Budget impact (in millins): 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 brought from a foreign country to the U.S. because of destitution or illness, or war, threat of war, invasion or similar crisis; and (2) are without resources.

Prior to June, 1990, the maximum amount of temporary assistance that could be provided in one fiscal year equaled $300,000. In June, 1990, 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 repeals 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, 2; 1992, 2; 1993, 0; 1994, 0; 1995, 0; 5-year, 4;

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" includes such factors as 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 402(a)(19)(G)) that provides that if the principal earner (in the case of a family eligible on the basis of the unemployment of the principal earner (AFDC-UP) fails to participate in the JOBS program as required, the needs of that individual will not be taken into account in determining the amount of the family's AFDC benefit. If the spouse is not participating, the needs of the spouse will also not be taken into account. The penalty does not apply to benefits on behalf of any child in the family. When this new penalty language was added, however, the language contained in section 407 imposing a penalty for any child in the family if the principal earner failed to meet employment and training participation requirements was not repealed.

Proposed change

The statute would be clarified by repealing the penalty language in section 407 that requires a reduction in AFDC benefits on behalf of a child in an AFDC-UP family if the principal earner fails to participate in the JOBS program.

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 Eligiblity 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 1990 to count toward the "quarter of work" requirement for purposes of AFDC-UP eligiblity.

The provision would take effect on the date of enactment.

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

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 reporting 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 demonstration projects to create employment opportunities for certain low income individuals. The authorization for the demonstrations is $6.5 million for each of fiscal years 1990, 1991, 1992.

Proposed change

The statute would 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 statute required that, in order to be considered by the Secretary, an application for Federal funding must be made within six months after enactment of the Family Support Act.

If an application is approved, the Secretary may grant funds to the tribe or Alaska Native organization (without a non-Federal matching requirement) to operate a JOBS program. 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 provisions with respect to Indian tribes and Alaska Native organizations have been implemented by the Secretary and by such tribes and organizations, to describe any problems that may have been experienced in implementing the provisions, to determine to the extent possible the effectiveness of JOBS programs that are being operated by Indian tribes and Alsaka Native organizations, and to make recommendations as to any legislative or administrative changes that could be made to improve the effectiveness of such programs.

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

13. Moratorium on Final Regulations for Emergency Assistance (Section 6032)

Present law

The Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) 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 prohibition of issuance of 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 Child Care

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 for administrative costs includes matching for activities that involve placement of the child in foster care, as well as what are ordinarily considered administrative "overhead" costs. These include activities related to child protections mandated 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; development of a case plan for the child; periodic reviews of the child's case plan; and case management and supervision.

Although there are no official program data showing what portion of administrative costs go for child placement activities as opposed to ordinary administrative overhead, the Inspector General has estimated that only about 20 percent of foster care administrative costs represent what are traditionally 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 change the type 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 Congress with more specific information on how these child placement and administrative matching funds are being spent, the Congress expects that the Secretary will develop and establish uniform definitions for the activities reimbursable as child placement services and administration, and will require the States to account for expenditures according to these activities.

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.

2. Section 427 Triennial Reviews (Section 6041)

Present law

Public Law 96-272, 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 ensure that efforts are 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 case record survey which confirms that the policies are being implemented throughout the State.

An initial review is 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 was conducted, and every third year thereafter. This is known as the triennial review. The case record survey must confirm that the section 427 foster care protections are provided for at least 66% of the 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 any fiscal year proceding fiscal year 1991.

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

Proposed change

The provison would extend the current prohibition on reducing payments to, seeking repayment from, or withholding payments from States to October 1, 1991, to apply to any determinations made in conection with a triennial review for any Federal fiscal year preceding fiscal year 1992.

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 to 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 in services provided under the indepenedent living program, up 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 6043)

Present law

Federal matching is available to States on an entitlement basis to provide child care for AFDC parents who are participating in the JOBS program, and to provide child care for a period of 12 month 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 $65 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 Federal matching rates, standards, reimbursement, and fee schedules would remain the same as in current law. States would be required to report annually to the Secretary on child care activities carried out with funds 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 licensing and registration requirements and 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.

Budget impact (in millions): 1991, 39; 1992, 57; 1993, 65; 1994, 65; 1995, 65; 5-year, 291.

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 State Disability Determination Service that rendered the initial unfavorable determination; a hearing before an SSA 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 benefits continued through the hearing stage of appeal. 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.) Medicare eligibility is also continued, but medicare benefits are not subject to recovery.

The Disability Reform Amendments of 1984 (P.L. 98-460) provided benefits through the hearing stage on a temporary basis. This provision was subsequently extended, most recently by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239). That Act extends the provision to appeals of termination decisions made on or before 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 DI and medicare benefits continued through the hearing stage of appeal. As under current law, DI benefits would be subject to recovery where the ALJ upheld the earlier unfavorable decision, while medicare benefits would not be subject to subsequent recovery.

The provision would be effective upon enactment.

Budget Impact (in millions): 1991, 9; 1992, 40; 1993, 53; 1994, 62; 1995, 71; 5-year, 235.

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

Present law

A widow(er) or surviving divorced spouse of a worker may be entitled to widow(er)'s benefits if he or she is age 60, or at any age if he or she is caring for the worker's child who is under age 16. A widow(er) 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(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, 1990) by reason of a physical or mental impairment. The impairment must be medically determinable and expected to last for not less than 12 months or to result in death. A person (other than a disabled widow(er)) may be determined to be disabled only if, due to this impairment, he or she is unable to engage in any kind of substantial gainful work, considering his or her age, education 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. First, a widow(er) must have a disability severe enough to prevent him or her from engaging in "any gainful activity" (little or no earnings at all) rather than substantial gainful activity (ordinarily, earnings of more than $500 per month). Second, for a disabled widow(er) the three vocational factors used in determining a worker's disability—age, education, and work experience—are not considered. Therefore, the disability must be established based on medical evidence alone.

Once SSA determines that an individual is disabled, there is a five-month waiting period before disability benefits are payable. Once disability benefits begin, there is a 24-month waiting period for entitlement to medicare benefits.

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 step into an unexplored area where cost potentials are an important consideration."

Proposed change

The provision of benefits to widow(er)s on the basis of disability has been found not to be a significant cost to the trust fund. Therefore, the provision would repeal the stricter defintion of disability that must be met by a disabled widow(er) age 50-59 in order to qualify for widow(er)'s benefits and instead apply the definition of disability used for workers. Widow(er)s who had been receiving SSI disability benefits or social security disability benefits on their own work records prior to becoming eligible for disabled widow(er)'s benefits would be able to count the months beginning with the month they first received these benefits toward satisfying the five-month waiting period for disability benefits and the 24-month waiting period for medicare benefits. In addition, widow(er)s who receive SSI disability benefits prior to becoming entitled to disabled widow(er)'s benefits would not lose medicaid eligibility as a result of receiving a higher social security benefit, but only for so long as they are not entitled to medicare benefits.

The provision would be effective for benefits payable for months after December, 1990, but only on the basis of applications filed on or after January 1, 1991. The Secretary would not be required to make a new determination of disability for widow(er)s receiving SSI or disabled worker's benefits prior to becoming entitled to disabled widow(er)'s benefits. SSA would be required, to the extent possible, to notify such individuals of their eligibility for disabled widow(er)'s benefits.

Budget impact (in millions): 1991, 21; 1992, 51; 1993, 83; 1994, 103; 1995, 128; 5-year, 385.

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 must meet two tests in order to the entitled to benefits as a surviving child. First, adoption proceedings must have been initiated prior to the worker's death, or the adoption must have been completed within two years of the worker's death. Second, the child must have been living in the worker's home and cannot have been receiving support from any source other than the worker or the spouse (e.g., a foster care program) in the year prior to the worker's death.

Proposed change

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

The provision would be effective with respect to benefits payable for months after December 1990, but only on the basis of applications filed on or after January 1, 1991.

Budget impact (in millions): 1991, *; 1992, 1; 1993, 1; 1994, 2; 1995, 2; 5-year, 6.

4. Improvements in the Representative Payee System (Section 6053)

Present law

Under current law, the Secretary of Health and Human Services may appoint a relative or some other person (known as a "representative payee") to receive social security or SSI benefit payments on behalf of a beneficiary whenever it appears to the Secretary that the appointment of a representative payee would be in the best interest of the beneficiary.

The Secretary is required to investigate each individual applying to be a representative payee either prior to, or within 45 days after, the Secretary certifies payment of benefits to that individual. Present law does not specify what shall be included in the investigation.

The Secretary is required to maintain a system of accountability monitoring under which each representative payee is required to report not less than anually regarding the use of the payments. The Secretary is required to review the reports and identify instances where payments are not being properly used.

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. Investigations of representative payee applicants

During the investigation of the representative payee applicant, the Secretary would be required to: (1) require the representative payee applicant to submit documented proof of identity; (2) conduct a face-to-face interview with the representative payee applicant when practicable; (3) verify the social security account number or employer identification number of the representative payee applicant; (4) determine whether the representative payee applicant has been convicted of a social security felony under section 208 or section 1632 of the Social Security Act; and (5) determine whether the representative payee applicant had ever been dismissed as a representative payee for misuse of a beneficiary's funds. An individual who had been convicted of a felony

under section 208 or section 1632, or dismissed as a representative payee for misuse of the benefit payment, would not be permitted to be certified as a representative payee on or after January 1, 1991. The Secretary would be permitted to issue regulations under which an exemption from the prohibition against certification in the case of misuse would be granted on a case-by-case basis, if the exemption would be in the best interest of the beneficiary. The Committee intends that the exemption would be granted only in rare instances.

The Secretary would be required to: (1) terminate payments to a representative payee where the Secretary or court of law found that the representative payee and misused the benefit payments; (2) maintain a list of those 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 developed by January 1, 1991, the list should be maintained manually. Under current SSA policy, misuse is defined as converting benefit payments for personal use, or otherwise diverting the payments in bad faith with a reckless indifference to the welfare and interests of the beneficiary. The Committee expects the Secretary to apply this definition under this provision.

The Secretary would be required to maintain a centralized, current file readily retrievable by all local SSA offices of: (1) the address and social security account number (or employer identification number) of each representative payee; and (2) the address and social security account number of each beneficiary for whom each representative payee is providing services as representative payee. In addition, local service offices would be required to maintain a list of all public agencies and community-based nonprofit social service agencies qualified to serve as a representative payee in the area served by such office.

Current law prohibits any individual convicted of a felony under section 208 or section 1632 of the Social Security Act from serving as representative payee. The provision would require SSA to maintain a list of those convicted and make it readily available to local field offices.

b. Withholding of benefits

In cases where the Secretary is unable to fine a representative payee, and the Secretary determines that it would cause the social security beneficiary or SSI recipient 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 starting with the current months' benefit unless the beneficiary and had been declared legally incompetent or was under age 15. Retroactive benefits would be withheld until a representative payee has been appointed or the Secretary determines a suitable representative payee could not be found. Retroactive benefits would be paid over such period as the Secretary determines is in the best interest of the beneficiary.

It is not the intention of the Committee to encourage SSA to withhold benefits from a beneficiary whom the Secretary has determined to need a representative payee. The beneficiary should be paid directly if at all possible, especially if the beneficiary had been using the benefit payment to meet immediate needs such as shelter, food and clothing.

The Committee does not wish SSA to view the one month withholding period as a routinely acceptable length of time in which to find a representative payee. The Committee expects SSA to make every effort to find a qualified representative payee for an individual as quickly as possible.

The Committee recognizes that in some cases (such as an unreported change of address) SSA may not be officially notified of the need to change a representative payee. The Committee intends that the 1-month period of suspension shall be measured from the point the Secretary first becomes aware that a representative payee issue exists, and shall consider the objective of this provision met so long as the Secretary takes prompt action to minimize interruption of benefits.

c. Limitations on the appointment of representative payee

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 with certain exceptions. The exceptions would include: (1) a relative who resides in the same household as the beneficiary; (2) a legal guardian or representative (3) a facility licensed or certified under State or local law; (4) an administrator, owner, or employee of such facility if the beneficiary resides in the facility and the local social security office has made a good faith effort to locate an alternative representative payee; and (5) an individual whom the Secretary determines to be acceptable based on a written finding reached under established rules that require the individual to show to the satisfaction of the Secretary that he or she poses no risk to the beneficiary, that the individual's financial relationship with the beneficiary poses no substantial conflict of interest, and no other more suitable representative payee exists.

d. Appeal rights and notices

The beneficiary would have the right to: (1) appeal the Secretary's determination of the need for a representative payee; and (2) appeal the designation of a particular person to serve as representative payee. In appealing either the determination or the designation, the beneficiary (or the applicant in cases of initial entitlement) would have a right to review the evidence upon which the determination was based and to submit additional evidence to support the appeal.

The Secretary would be required to send a written notice of the determination of the need for a representative payee to the beneficiary (Other than a child under age 18 living with his parents), and each person authorized to act on behalf of an individual who is legally incompetent or is a minor.

The provision would require that the notices be provided in advance of any benefits being paid to a representative payee. In addition, the notice must be clearly written and explain the beneficiary's rights in an easily understandable manner.

e. High-risk representative payees

The Secretary would be required to study and provide recommendations as to the feasibility and desirability of formulating stricter accounting requirements for all high-risk representative payees and providing for more stringent review of all accounting from such representative payees. The Secretary would be required to define as high-risk representative payees: (1) non-relative representative payees who do not live with the beneficiary; (2) those who serve as a representative payee for five or more beneficiaries (under title II, title XVI or a combination thereof) and who are not related to them; (3) creditors of the beneficiary; and (4) any other group determined by the Secretary to be high-risk.

The purposes of the provision is to identify groups or individuals serving as representative payee who may be likely to misuse or improperly use benefit payments. At a minimum, the Committee expects SSA to examine board and care operators, nursing homes, and individuals who are not related to the beneficiary. The proposal does not apply to Federal or State governmental institutions.

f. Underpayment of benefits

In cases where the negligent failure of the Secretary to investigate or monitor a representative payee result in misused benefits, the Secretary would be required to make repayment to the beneficiary. In addition, the Secretary would be required to make a good faith effort to obtain restitution of any misused funds.

g. Fee for representative payee services

Community-based non-profit social service agencies, in existence on October 1, 1988, which are bonded or licensed by their states and regularly serve as representative payees for five or more beneficiaries would be allowed to collect a monthly fee for representative payee services. The fee would be collected from the beneficiary's social security or SSI payment not to exceed the lesser of ten percent of the monthly benefit due or $25.

The provision would sunset after three years. The Secretary would be required to keep track of the number and type of groups who participated under this provision and report back to the Committee on Ways and Means and the Committee on Finance at the end of two years.

In general, the provision would prohibit an agency which is a creditor of the beneficiary from serving as a representative payee but would require the Secretary to develop regulations whereby exceptions would be granted on a case by case basis if the exception is in the best interest of the beneficiary.

The term "community-based, non-profit, social service agencies" means non-profit social service agencies which are representative of communities or significant segments of communities and that regularly provide services for those in need. Guardian, Inc., of Calhoun County, Michigan, is an example of a non-profit organization which regularly provides representative payee services. The Salvation Army, Catholic Charities, and Lutheran Social Services are examples of agencies providing social services to the needy.

Qualified organizations which charge or collect, or make arrangements to charge or collect, a fee in excess of the maximum fee would be subject to a fine of not more than $10,000.

Currently, SSA permits an individual serving as a representative payee to be reimbursed from the beneficiary's check for actual out-of-pocket expenses incurred on behalf of the beneficiary. These expenses include items such as stamps, envelopes, cab fare, or long-distance phone calls. It is the intention of the Committee that such individual representative payees would continue to be reimbursed in this manner. The Committee does not intend these representative payees to receive any additional fee for services.

The General Accounting Office would be directed to conduct a study of the advantages and disadvantages of allowing qualified organizations that charge fees to serve as representative payees to individuals who receive social security and SSI benefits, and to report its finding to the Finance and Ways and Means Committee by January 1, 1993.

h. Studies and demonstration projects

(1) The Secretary would be required to enter into demonstration arrangements

with not fewer than two states under which the Secretary would send to such states a list of all addresses where OASDI and SSI benefit payments are received by five or more unrelated beneficiaries. The Secretary would be required to send the information to the state agencies primarily responsible for regulating care facilities or for providing adult or child protective services in the participating states.

The purpose of this demonstration project is to determine whether providing such information to the state protective service agencies would be useful in locating unlicensed board and care homes.

(ii) The Secretary would be required to study 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 payee.

The information obtained from this study would assist the Committee in determining whether there are circumstances under which an individual with a conviction should be permitted to serve as a representative payee.

(iii) The Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Attorney General, would be required to study the feasibility of establishing and maintaining a list of the names and social security account numbers of those 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 consider the feasibility of providing such a list to social security field offices in order to assist claims representatives in the investigation of representative payee applicants. The Secretary would be required to report the results of the study, together with any recommendations, to the Committee on Ways and Means and the Committee on Finance no later than July 1, 1992.

Law enforcement agencies do not report violations under section 495 of title 18 of the U.S. Code to either SSA or the Department of Health and Human Services Inspector General. As a result, SSA is often unaware of arrests and convictions of individuals for violations under this section and therefore fails to obtain restitution or to prevent those convicted of such violations from serving as representative payee.

(iv) The Secretary would be required to conduct a study with the Department of Veterans' Affairs of the feasibility of designating the Department of Veterans' Affairs as the lead agency for administering a representative payee program for dual recipients of Old Age Survivors and Disability Insurance or Supplemental Security Income benefits and veterans' benefits. The Secretary would be required to report to Congress on the feasibility of this arrangement within six months after enactment.

In general, the provision would be effective July 1, 1991.

Budget impact (in millions): 1991, 17; 1992, 4; 1993, 5; 1994, 5; 1995, 5; 5-year, 36.

5. Streamlining of the Attorney Fee Payment Process (Section 6054)

Present law

Attorneys and other persons who represent claimants before the Social Security Administration (SSA) are permitted to collect fees for their services, subject to approval and limits set by SSA. By regulation, the representative must submit a fee petition detailing the number of hours spent on the case and requesting a specific fee. The Administrative Law Judge (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 is represented by an attorney 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 directly. In cases where the claimant is concurrently entitled to both retroactive social security and Supplemental Security Income (SSI) benefits and the SSI benefits are paid first, the amount of past-due social security benefits payable is reduced by the amount of SSI benefits that would not have been 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 out of 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 SSA would approve any fee agreement jointly submitted in writing and signed by the representative and the claimant if the Secretary's determination with respect to a claim for past-due benefits was favorable and if the agreed-upon feee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The $4,000 limit could be increased periodically for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined approval 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, prior to any reduction for previously-paid SSI benefits. However, if the attorney were awarded a fee in excess of 25 percent of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney out of the past-due social security benefits could not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ that heard the case would have the right to protest the approved fee. However, the ALJ could protest the approved 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 the services rendered. SSA would review any protested fee and approve, modify, or disallow it. If the ALJ that heard the case filed the protest, a different ALJ would review the fee.

It is not the Committee's intent that this process be used to establish regular review of fees at the ALJ level. The Committee wishes to emphasize that the protest of a fee amount by an ALJ is to be made only in cases where there is evidence that the fee is clearly excessive in light of the services rendered.

In addition, with respect to reinbursement for travel expenses of individuals who represent claimants, such reimbursement could not exceed the maximum amount that would be payable for travel to the site of the reconsideration interview or proceeding before an ALJ from a point within the geographical area served by the office having jurisdiction over the interview or proceeding.

With the exception of the provisions relating to direct payment of an attorney's fee out of past-due benefits, conforming changes would be made with respect to representation of SSI applicants.

The provision would be effective for determinations made on or after January 1, 1991, and reimbursement for travel costs incurred on or after January 1, 1991.

Budget impact (in millions): 1991, 12; 1992, 9; 1993, *; 1994, -3; 1995, -4; 5-year, 14.

6. Improvements in Social Security Administration Services and Beneficiary Protections (Sections 6055-6056)

Present law

a. SSA Telephone Accountability Demonstration Projects: The Social Security Act is silent regarding telephone service provided by SSA. In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

Since October 1989, there have been many complaints from the public about SSA's telephone service. These complaints focus on high 800 number busy rates, on problems with the accuracy and completeness of information provided to callers, and on difficulties caused by the elimination of telephone access to local offices.

b. Appeal Versus Reapplication: If a claimant for social security disability benefits successfully appeals an adverse determination by the Secretary, benefits can be paid retroactively for up to 12 months prior to the date of the original application.

If, however, instead of appealing, the claimant reapplies and is subsequently found to be disabled as of the date originally alleged, there are circumstances where retroactive benefits would be limited to 12 months prior to the date of the subsequent application (rather than prior to the date of the first application). This occurs when SSA's "reopening rules" do not permit the original application to be reopened. (SSA's administrative policy permits a case to be reopened within 12 months of an initial determination for any reason; and within four years if there is new and material evidence or the original evidence clearly shows on its face that an error was made in the original decision.)

A reapplication, in lieu of an appeal, also could result in an outright denial of social security or Supplemental Security Income (SSI) benefits without consideration of an individual's medical condition. This occurs in the case of social security when (i) the claimant's insured status runs out before the date of the original denial, and (ii) there is no new and material evidence and no facts or issues that were not considered in making the prior decision. In the case of SSI, this occurs when (ii) applies. In these situations, SSA applies the legal principle of res judicata to deny the subsequent claim. Under this principle—the use of which is prescribed by SSA regulations—SSA will not consider the same claim again and again.

Prior to May 1989, SSA's standard denial notice informed claimants that they could reapply at any time but did not explain the potential adverse consequences of reapplying versus appealing a denial. A May 1989 modification of this notice informs claimants that reapplying may result in a loss of

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 Projects: The Secretary would be required to carry out 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 with the agency. This confirmation would include the name of the SSA employee with whom the caller spoke, a description of any action that the emloyee said would be taken in response to the call, and any advice that the caller was given. SSA would be required to maintain a copy of this confirmation for a minimum of five years following the termination of the demonstration projects.

Routine telephone communication would be excluded from these requirements. Thus, callers making inquiries that do not relate to potential or current entitlement or eligiblity for title II, title XVI or title XVIII benefits—i.e., questions about the location or hours of operation of local offices—would not be subject to the accountability procedures described above.

The Secretary would be required to issue a report to the Committee on Ways and Means and the Committee on Finance on the demonstration projects. This report would:

(i) assess the costs and benefits of the accountability procedurs;

(ii) identify any major difficulties encountered in implementing the demonstration projects; and

(iii) assess the feasibility of implementing the accountability procedures nationally.

The telephone demonstration projects would be required to be initiated within six months of the enactment of this Act, and would continue for one to three yers. The report would be submitted 90 days after the termination of the projects.

Budget impact (in millions): 1991, 1; 1992, 3; 1993, 1; 1994, 0; 1995, 0; 5-year, 5.

b. Appeal Versus Reapplication: When a claimant for social security or SSI benefits can demonstrate that he or she failed to appeal an adverse decision because of reliance on incorrect, incomplete, or misleading information provided by SSA, his or her failure to appeal could not serve as the basis for denial by the Secretary of a second application for any payment under title II or title XVI. This protection would apply to both initial denials and reconsiderations by the Secretary. The Secretary also would be required to include in all notices of denial a clear, simple description of the effect on possible entitlement to benefits of reapplying rather than filing an appeal.

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

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

7. Restoration of Telephone Access to the Local Offices of the Social Security Administration (Section 6057)

Present law

The Social Security Act is silent regarding telephone service provided by the Social Security Administration (SSA). In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

Proposed change

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 cut-off of direct telephone access to most local offices). The Secretary would also be required to re-list these local office numbers in local telephone directories (as well as in the directories used by public telephone operators in providing callers with information). The required telephone listings could include a brief instruction to the public to call SSA's 800 number for general information.

In addition, by January 1, 1993, the Secretary would be required to submit to the Committee on Finance and the Committee on Ways and Means a report which: (i) assesses the impact of the requirements established by this provision on SSA's allocation of resources, workload levels, and service to the public, and (ii) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices. If the Secretary's plan provides for maintaining or enhancing public access to local offices by individuals in need of assistance from a local SSA representative, it is the Committee's intent to reconsider the need for a statutory requirement governing telephone access. Ninety days after the enactment of this provision, the General Accounting Office would be required to report to the Committee on Finance and the Committee on Ways and Means on the level of public telephone access to the local offices of the Social Security Administration.

The provision would require restoration of SSA's local telephone service by April 1, 1991.

Budget impact (in millions): 1991, 1; 1992, 1; 1993, 1; 1994, 1; 1995, 1; 5-year, 4.

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

Present law

The Omnibus Budget Reconciliation Act of 1989 required the Social Security Administration to establish a program under which covered workers receive periodic statements concerning their earnings and the potential benefits payable on the basis of those earnings. Under that legislation, these statements are to be provided on a biennial basis starting October 1, 1999.

Proposed change

The requirement that earnings and benefit statements be provided biennially starting in 1999 would be modified to require annual statements beginning at that time. In addition, the Secretary of the Treasury would be authorized to disclose to the Commissioner of Social Security the mailing address of any taxpayer who is entitled to receive an earnings and benefit statement.

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. Provide a Rolling Five-Year Trial Work Period for All Disabled Beneficiaries (Section 6059)

Present law

Under present law, disability beneficiaries who are still disabled but who want to return to work despite their disabling condition are entitled to a nine-month trial work period. (The months need not be consecutive.) During this period, disabled beneficiaries may test their ability to work without affecting their entitlement to disability benefits. Any work and earnings are disregarded in determining whether the beneficiary's disability has ceased.

Only one trial work period is allowed in any one period of disability. In addition, an individual who is entitled to disabled worker's benefits for which he has qualified without serving a waiting period (i.e., the worker was previously entitled to disabled worker's benefits within five years before the month he again becomes disabled) is not entitled to a trial work period.

Proposed changes

All beneficiaries would be given an opportunity to test their capacity to engage in substantial gainful activity over a sustained period of time before their benefits would be stopped by providing that a disabled beneficiary would exhaust his nine-month trial work period only if he performed services in any nine months within a rolling 60-month period (that is, within any period of 60 consecutive months) and repealing the provision which precludes a reentitled disabled worker from being eligible for a trial work period.

The provision would be effective January 1, 1992.

Budget impact (in millions): 1991, 0; 1992, *; 1993, 1; 1994, 1; 1995, 1; 5-year, 3.

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

Present law

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: (1) the individual is participating in an approved State vocational rehabilitation program, and (2) the Commissioner of Social Security determines that completion of the program, or its continuation for a specified period of time, will increase 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 non-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

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

Special 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 was extended to their jobs, were 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 coverage 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 in 1977) or who receive less than the minimum benefit (due to its elimination in 1982) to become newly eligible for Prouty benefits. In 1990, the Prouty benefit amount is $159 per month.

Proposed change

The provision would preclude the unintended 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 not affect any current beneficiaries.

The provision would be effective upon enactment.

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

12. Elimination of Advance Tax Transfer (Section 6062)

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 tax receipts which are expected to be collected throughout the month. These receipts are invested in interest bearing Treasury securities; however, an interest adjustment is made later to leave the trust funds with the same interest earnings that they would have had if the taxes had been credited on an "as received basis." When the debt subject to limit approaches the level of the debt limit, the present crediting rules frequently present Treasury with a situation in which trust fund assets cannot be invested because the debt limit has been reached.

Proposed change

The advance tax transfer provisions would be repealed, returning to the prior procedure of crediting the trust funds as tax receipts are received. However, the advanced tax transfer mechanism would be retained as a contingency to be exercised only to the extent that the Secretary of the Treasury determines is necessary to assure sufficient funds to meet current benefit obligations. This would give the social security program the same level of protection that it enjoys under present law without continuing the routine use of the advance transfer mechanism.

The provision would be effective after December 1990.

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 were 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 effectively mean that an individual 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 benefits could be paid 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 individuals eligible for actuarially reduced benefits: (1) individuals who have dependents who would be entitled to unreduced benefits during the retroactive period (e.g., 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 test that could be charged off against 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, −134; 1992, −149; 1993, −147; 1994, −144; 1995, −139; 5-year, −713.

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 1967 and are used only if they provide a higher benefit than newer computation methods.

Such computations must be done manually. The Social Security Administration (SSA) estimates it would cost more to develop computer programs for these computation methods than would be paid in cumulative added benefits when the benefits 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.

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 85 and are working at a wage high enough to result in an increase in benefits after a recomputation using a computation 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, *; 1992, *; 1993 *; 1994, *; 1995, *; 5-year, *.

15. Suspension of Dependent's Benefits When a Disabled Worker Is in an Extended Period of Eligibility (Section 6065)

Present law

A disability insurance beneficiary who successfuly competes a nine-month trial work period has an extended period of eligibility during which he or she continues to receive medicare benefits and is eligible to receive disability benefits if earnings fall below $500 a month. The law is silent regarding the payment of benefits to dependents during this extended period. However, current Social Security Administration (SSA) policy provides that dependent's benefits are suspended during this period if the disabled worker's benefits are suspended.

Proposed change

The provision would codify current SSA policy which links the disabled worker's entitlement to monthly benefits and the dependent's entitlement to benefits for the same month. Thus, a dependent could receive benefits for a month only if the disabled worker received benefits for that month.

The proposal would be effective upon enactment.

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

16. Recommendation of the Committee Concerning the Budgetary Treatment of Social Security

The Committee recommends that the income and outgo of the social security tax revenues and other elements of trust fund income such as interest, transfers of receipts from the income taxation of benefits, and other payments to the trust fund, be excluded from any calculations of the surplus or deficit of the general government including the deficit totals used for purposes of applying the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act ("Gramm-Rudman").

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 HHS 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 HHS 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.

PART B PREMIUM

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.

SUBTITLE D. REVENUE-RAISING PROVISIONS

6. Employment Tax Provisions

a. Increase dollar limitation on amount of wages and self-employment income subject to the Medicare hospital insurance payroll tax (sec. 7451 of the bill and sec. 3121 of the Code).

Present Law

As part of the Federal Insurance Contributions Act (FICA), a tax is imposed on employees and employers up to a maximum amount of employee wages. The tax is comprised of two parts: old-age, survivor, and disability insurance (OASDI) and Medicare hospital insurance (HI). For wages paid in 1990 to covered employees, the HI tax rate is 1.45 percent on both the employer and the employee on the first $51,300 of wages and the OASDI tax rate is 6.2 percent on both the employer and the employee on the first $51,300 of wages.

Under the Self-Employment Contributions Act of 1954 (SECA), a tax is imposed on an individual's self-employment income. The self-employment tax rate is the same as the total rate for employers and employees (i.e., 2.9 percent for HI and 12.40 percent for OASDI). For 1990, the tax is applied to the first $51,300 of self-employment income and, 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 progressivity 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 $89,000. 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 of, 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 State and local government employees so that the tax rate is 1.6 percent in 1992; 2.7 percent in 1993; and 2.9 percent in 1994 and thereafter. The present-law student exception is retained with respect to students employed in public schools, colleges, and universities. Coverage may, as under present law, continue to 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 is 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 employees 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 (sec. 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 (HHS). After a State has entered into such an agreement, it may decide, or permit its political subdivisions to decide, 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 elected 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 for 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. 418(b)(4)). 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., is a participant) of a retirement system is based upon whether that 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 rule, and is to be covered under the social security system.

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 receipts 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.

h. Payroll tax deposit stabilization (sec. 7458 of the bill and sec. 6302(g) of the Code).

Present Law

Treasury regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

Employers are required to deposit these taxes as frequently as eight times per

III—Revenue Table Prepared by the Joint Committee on Taxation

BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990—FISCAL YEARS 1991-1995

[In Billions of Dollars]

Item	Effective	1991	1992	1193	1994	1995	1991-95
A. Extend expiring provisions through 12/3/91:[1]							
1. Foreign allocation of R&D		−.5	−.3				−.8
2. Research and experimentation tax credit[2]		−.6	−.4	−.1	−.1	(*)	−1.2
3. Employer-provided educational assistance (include graduate students)		−.3	−.1				−.4
4. Employer-provided group legal services		−.1	(*)				−.1
5. Targeted jobs tax credit		−.1	−.1	−.1	(*)	(*)	−.3
6. Business energy tax credits (solar, geothermal, and ocean thermal property)		−0.1	(*)	(*)	(*)	(*)	−0.1
7. Low-income housing credit (with modifications)		(−.2)	4	4	4	4	−1.9
8. Mortgage revenue bonds and mortgage credit certificates		(*)	−.1	−.1	−.1	−.1	−0.4
9. Qualified small-issue manufacturing bonds		(*)	−.1	−.1	−.1	−.1	−.3
10. Health insurance for self-employed (25% deduction)		−.3	−.1				−.4
11. Orphan drug tax credit		(*)	(*)	(*)	(*)	(*)	(*)
Subtotals, extension of expiring provisions		−2.1	−1.5	−.8	−.6	−.6	−5.6
Other tax incentives:							
1. Energy incentives:							
a. Extend nonconventional fuels tax credit (section 29) permanently and expand to tight sands gas	1/1/91	(*)	−.1	−.2	−.3	−.4	−1.0
b. Tax incentives for ethanol production	1/1/91	(*)	(*)	(*)	−.1	−.1	−.2
c. 15% credit for enhanced oil recovery costs[3]	1/1/91	(*)	(*)	(*)	−.1	−.1	−.2
d. Percentage depletion amendments	1/1/91	(*)	(*)	−.1	−.1	−.1	−.3
e. Exploratory drilling credit and preference carback[3]	1/1/91	−.2	−.3	−.3	−.3	−.3	−1.4
f. Reduce AMT preference for percentage depletion on stripper wells[3]	1/1/91	(*)	−.1	−.1	−.1	−.1	−.4
2. Additional small business incentives:							
a. Modify estate freeze rules (section 2036(c))	10/9/90	0.1	(*)	−0.1	−0.2	−0.3	−0.5
b. Public accommodations expenditures:							
i. Disabled persons access tax credit (50%/$5,000)[4]	D/oE	(*)	−.1	−.1	−.1	−.1	−.4
ii. Lower cap on section 190 expensing to $15,000	D/oE	(*)	−.1	−.1	−.1	−.1	−.4
c. Increase section 179 expensing to $14,000	1/1/91	−.5	−.8	−.6	−.4	−.3	−2.7
Subtotals, other tax incentives		−0.6	−1.3	−1.4	−1.6	−1.7	−6.6

BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990—FISCAL YEARS 1991-1995—Continued

[In Billions of Dollars]

Item	Effective	1991	1992	1193	1994	1995	1991-95
C. Progressivity enhancement proposals:							
Increase EITC and provide other credits in latest Senate child care offer[9]	1/1/91	−.1	−2.1	−3.0	−4.3	−7.4	−16.9
D. Deficit reduction provisions:							
1. Provisions affecting itemized deductions:							
a. Limitation on itemized deductions of high-income taxpayers[10]	1/1/91	−.9	−6.3	−6.5	−7.4	−8.4	−29.5
b. Eliminate AMT preference for charitable contributions of certain tangible personal property	1/1/91	(*)	(*)	(*)	(*)	(*)	−0.1
c. Eliminate medical deduction for cosmetic surgery	1/1/91	(*)	.1	.1	.1	.1	0.3
2. Motor fuels tax (4 cents; 9 cents after 7/1/91; 9½ cents after 1/1/92) [11]	12/1/90	4.6	9.6	9.4	9.5	9.5	42.6
3. Increase tobacco excise taxes by 4 cents per pack in 1991 and by 4 cents per pack in 1993	1/1/91	.6	.8	1.5	1.5	1.5	5.9
4. Increase beer, wine, and distilled spirits excise taxes [12]	1/1/91	1.4	2.0	1.9	1.9	1.9	9.1
5. Impose 10% luxury excise tax[13]	1/1/91	.2	.4	.5	.5	.5	2.1
6. Expand ozone-depleting chemical excise tax [14]	1/1/90	1/1/91	.1	.1	.1	.1	0.5
7. Extend Leaking Underground Storage Tank (LUST) Trust Fund excise tax (5 years)	12/1/90	.1	.1	.1	.1	.1	0.6
8. Increase Airport Trust Fund aviation excise taxes (5 years) [15]	1/1/91	1.3	2.3	2.5	2.7	3.0	11.8
9. Increase harbor maintenance excise tax	1/1/91	.3	.3	.4	.4	.4	1.8
10. Loss deductions and salvage values for insurance companies	1/1/90	.3	.2	.2	.2	.2	1.1
11. Amortize insurance policy deferred acquisition expenses (DAC)	9/30/90	1.5	1.7	1.7	1.6	1.5	8.0
12. Adopt tax compliance provisions including certain provisions from S. 2410	3/20/90	(*)	(*)	.1	.1	.1	.3
13. Retiree health with reversion excise increase and asset cushion requirement[16]	1/1/91	.5	.2	.2	.1	(*)	1.0
14. Corporate interest disallowance	1/1/91	3.5	.2	.2	.1	.1	4.1
15. Business tax provision:							
a. Expand and clarify reporting and allocation rules for certain asset acquisitions	10/18/90	(*)	(*)	(*)	(*)	(*)	.1
b. Require accrual of redemption premium for certain preferred stock	10/10/90	(*)	.1	.1	.1	.1	.4
c. Expand application of CERT rules to subsidiary acquisitions	10/10/90	(*)	.1	.1	.1	.1	.4
d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period)	10/10/90	(*)	(*)	(*)	(*)	(*)	.2
e. Clarify treatment of debt exchanges	10/10/90	.1	.1	.1	(*)	(*)	.3
16. Extend IRS user fees (permanent [17]	9/30/90	(*)	(*)	(*)	(*)	(*)	.2
17. Extend medicare (HI) tax to all State and local employees [18]	1/1/92	.....	.7	1.4	1.6	1.6	5.2
18. Extend Social Security (OASDI) to State and local employees not participating in a public employee retirement system[19]	1/1/92	.....	1.4	2.1	2.2	2.4	8.1
19. FUTA surtax (5 years) [17]	1/1/91	.8	1.1	1.1	1.2	1.2	5.4
20. Increase railroad retirement payroll taxes [17]		(*)	(*)	(*)	.1	.1	.2
21. Payroll tax deposit stabilization		1.0	2.2	−3.2	.....	.....	.....
22. Extend telephone excise tax and modify collection period	1/1/91	1.6	2.6	2.8	2.9	3.1	13.1
23. Increase medicare (HI) wage cap to $89,000	1/1/91	1.3	4.1	4.2	4.5	4.8	19.0
Subtotals, deficit reduction provisions		20.3	36.8	34.1	39.1	40.9	171.2
E. Other provisions:							
Increase JCT refund review threshold	D/o/E	.....	.....	.....	.....	.....	.....
Grand totals		17.5	31.9	28.9	32.6	31.2	142.1

(1) All estimates assume full restoration of tax benefits for 1990.
(2) Credit rate is retained at current level of 20%; base limitation is retained at current level of 50%.
(3) Loss of less than $50 million.
(4) Gain of less than $10 million.
(5) Loss of less than $10 million.
(6) Gain of less than $50 million.
(7) Tax incentive begins phasing out as price of crude oil reaches $28 per barrel (adjusted for inflation). The estimate in the revenue table is based on current Congressional Budget Office (CBO) macro-economic forecast which projects crude oil prices in the range of $18 to $23 per barrel during FY 1991-95.
(8) Provide maximum $5,000 per year credit for 50% of eligible expenditures to make public accommodations accessible to disabled persons; limited to small businesses.
(9) Estimate reflects a combination of increased EITC (with modifications to adjust for family size, to enhance compliance, and to add a credit for health insurance) and 90% refundable dependent care credit. Total cost equals $5.0 billion provided in Budget Summit Agreement, plus $11.9 billion of tax credits contained in the latest Senate offer on child care (Conference on H.R. 3).
(10) Disallow itemized deductions in an amount equal to 5% of AGI in excess of $100,000 for single returns, $100,000 for joint returns, and $100,000 for head of household returns. Proposal does not apply to medical expenses, casualty losses, or investment interest. Disallowance under the proposal cannot exceed 80% of otherwise deductible itemized deductions subject to the proposal.
(11) 50% of motor fuels tax increase dedicated to deficit reduction; 50% dedicated to highway trust fund (20% of this portion to be allocated to mass transit account). Railroads will pay 50% of increase in rates; revenue increase dedicated to deficit reduction. Each State to receive Highway account apportionments and allocations equal to at least 95% of its contribution attributable to increased revenue.
(12) Increase distilled spirits by $1.20 (to $13,0/proof gallon); double beer to 32 cents/6-pack ($18/barrel); increase table wine to 21 cents/bottle ($1.07/gallon); maintaining current differential for fortified wines; with small winery/brewery exemption.
(13) Tax applies to specific newly-manufactured items with retail prices above the following thresholds: automobiles—$30,000; private boats and yachts—$100,000; jewelry—$5,000; furs—$5,000; and airplanes—$250,000. If an 80% business use test is satisfied for airplanes, the tax may be refunded by claiming it on the tax return for the year following purchase; this is allowed only if business use can be demonstrated to be 80% for that year. Tax is 10% of purchase price in excess of thresholds.
(14) The tax with respect to the new chemicals subject to the tax is phased in as follows: 1991—$1.37, 1992—$1.37, 1993—$1.67, 1994—$3.00, 1995—$3.10.
(15) This estimate is presented relative to the CBO baseline which assumes extension of the Airport and Airway Trust Fund (AATF) taxes with the tax reduction trigger in effect. The estimate reflects the effects both of removing the trigger and of increasing the rates of certain of the AATF taxes by 25% as proposed in the President's budget. The tax revenues to to the Airport and Airway Trust Fund.
(16) Permit certain tax-free transfers of excess pension assets to pay retiree health benefits. (Revenue effect in billions: 1991—$0.5; 1992—$0.3; 1993—$02.; 1994—$0.2; 1995—$0.1; 1991-95 Totals—$1.3.) Generally effective for reversions after September 30, 1990, increase the reversion excise tax to 20%. If the employer does not transfer 20% of the reversion to a qualified replacement plan or provide certain benefit increases to plan participants and retirees of at least 25% of the reversion, the reversion tax is 40%. (Revenue effect in billions: 1991—Loss of less than $50 million; 1992—$0.1; 1993—$0.1; 1994—$0.1; 1995—$0.1; 1991-95 Total—$0.3.)
(17) Estimate provided by CBO.
(18) HI rate—0.6% in 1992, 1.35% in 1993, 1.45% in 1994 and thereafter.
(19) The Budget Summit Agreement assumed that $4.0 billion of this revenue source would be used for Social Security Act outlays. These outlay amounts are reflected in Title VI.

Notes: Details may not add to totals due to rounding. Interaction between or among items has not been taken into account for the purpose of this table. D/o/E in "Effective" column—Date of enactment.

SUMMARY OF DISTRIBUTIONAL EFFECTS, BY INCOME CATEGORY [1]; BUDGET RECONCILIATION—REVENUE PROPOSALS—AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990

[1990 income levels]

Income category [2]	Change in Federal taxes [3]		Federal taxes under present law [4]		Federal taxes under proposal [3,4]		Effective tax rates	
	Billions	Percent	Billions	Percent	Billions	Percent	Present law percent	Proposal percent
Less than $10,000	$0.0	0.0	$14.2	1.6	$14.2	1.6	13.3	13.3
10,000 to 20,000	−1.4	−2.1	65.8	7.6	64.4	7.3	15.6	15.2
20,000 to 30,000	2.8	2.7	102.5	11.9	105.3	11.9	18.4	18.9
30,000 to 40,000	3.2	2.8	115.8	13.4	119.0	13.5	20.0	20.6
40,000 to 50,000	2.5	2.8	87.9	10.2	90.3	10.2	21.4	22.0
50,000 to 75,000	3.2	1.9	172.8	20.0	176.0	19.9	24.7	25.2
75,000 to 100,000	1.7	2.5	66.5	7.7	68.2	7.7	25.8	26.5
100,000 to 200,000	3.6	3.5	104.4	12.1	108.0	12.2	26.2	27.1
200,000 and over	$5.0	3.7	133.3	15.4	138.2	15.6	25.2	26.1
Total, all taxpayers	$20.5	2.4	$863.2	100.0	$883.7	100.0	21.8	22.3

[1] Distributional analysis includes effects from the Budget Summit Agreement, as modified by the Senate Finance Committee Budget Reconciliation-Revenue Proposals, with respect to beer, wine and distilled spirits taxes, tobacco tax, energy tax, telephone tax, increase in HI wage cap, limitation on itemized deductions, individual AMT component of oil and gas production incentives, expand section 179 expensing, inclusion of latest Senate child care offer, and increase in the EITC. Analysis does not take into account effects from changes in taxpayer behavior.
[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] inside buildup on life insurance, [4] workers' compensation, [5] nontaxable social security benefits, [6] deductible contributions to individual retirement accounts, [7] the minimum tax preferences, and [8] net losses in excess of minimum tax preferences from passive business activities.
[3] Estimates of total tax liability presented in distributions will not match estimated changes in receipts because of differing time periods (CY 1990 vs. FY 1991-95), because of varying patterns of fiscal year receipts.
[4] Distributions represent combined effects of individual income taxes, payroll taxes, Federal excise taxes, and estate and gift taxes. For the purpose of distributions, the full burden of payroll taxes is assigned to employees. Excise taxes are assumed to be borne fully by individuals either directly through purchase of the taxed commodity or indirectly through higher prices on all commodities as businesses pass along these added costs. Because of the uncertainty concerning the incidence of the corporate income tax, it is excluded from this table. Information in table excludes individuals who are dependents of other taxpayers.

Source: Joint Committee on Taxation.

IV—COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

SENATE FINANCE: RECONCILIATION PROVISIONS—SUBTITLES A THROUGH E

(By fiscal year, in millions of dollars)

	1991	1992	1993	1994	1995	Total 1991-95
Direct spending provisions only:						
Subtitle A—Income Security including child care 10/16	−23	24	64	94	134	293
Subtitle B—Medicare	−4,156	−7,486	−10,219	−12,563	−14,845	−49,269
Subtitle C—Medicaid Program—OMB's to 133% poverty	26	−126	−207	−228	−399	−934
Subtitle D—Trade Provisions	1	−571	−561	−567	−589	−2,288
Subtitle E—Pension Benefit Guarantee Corporation	−120	−130	−130	−130	−130	−640
Total	−4,272	−8,289	−11,053	−13,394	−15,829	−52,839

COMMITTEE ON GOVERNMENTAL AFFAIRS

BUDGET RECONCILIATION RECOMMENDATIONS

Pursuant to H. Con. Res. 310, the Congressional Budget Resolution Conference Report, the Committee on Governmental Affairs has approved legislation which is projected to reduce the Fiscal Year (FY) 1991 budget deficit by approximately $2.165 billion, and reduce the Federal deficit by approximately $14.350 billion over five years (in fiscal years 1991-1995.) These savings are achieved through federal general government and pension and postal reforms, including the elimination of the Civil Service lump sum retirement option.

ELIMINATION OF RETIREMENT LUMP-SUM CREDIT

The Committee has approved legislation that would implement President Bush's FY 1991 budget proposal to eliminate the 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, and 50 percent of the amount of the lump-sum credit on the date 12 months 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.

FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM

Postal Service and D.C. Government

The Committee has approved legislation that would implement President Bush's FY 1991 budget proposal to require the United States Postal Service to pay Federal Employee Health Benefit (FEHB) costs for annuitants and their survivors who retired between June 30, 1971 (the date of the Postal Reorganization) and October 1, 1986, and to require the District of Columbia Government to pay the FEHB costs of its retirees (and their survivors).

Under current law, the Postal Service is required to pay the employer's share of FEHB costs for annuitants (and their survivors) who retired after September 30, 1986. Most Postal Service annuitants retired between 1971 and 1986. Their benefits are currently paid by the taxpayers as opposed to the Postal Service.

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 FEHBP annuitant enrollees who are age 65 and older but not eligible for Medicare. 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 FEHBP hospital claims. If this is the case, savings will be realized initially through reduced outlays (increased reserves) of the FEHBP 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 Employee's 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.

GENERAL GOVERNMENT REFORM

The Committee has approved legislation that includes the text of H.R. 5450, the Computer Matching and Privacy Protection Act Amendments of 1990. The Administration supports enactment of the measure. This bill marks two changes to the Computer Matching and Privacy Protection Act of 1988. First, the bill changes the period of time required by law to notify recipients of federal benefit 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 1988 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 action 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 means 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 providing the information determines 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 savings of $270 million.

H.R. 3139

The Committee has approved legislation that includes the text of H.R. 3139, the Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act of 1989. The Department of Defense (DoD) has nearly 200,000 nonappropriated fund (NAF) employees who work in the military morale, welfare, and recreation work force. The FY 89 Defense Authorization Act required DoD to reorganize the nonappropriated fund work force, which would cause up to 6,000 NAF employees to be converted to the civil service and up to 2,000 civil service employees to be converted to nonappropriated fund status.

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 in 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 (n). 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 amendment are inherent in the operation of those types of plans.

New section 8902(n)(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 8909(a) of title 5, United States Code, to require tighter management controls in disbursement of moneys from the Employees Health Benefits Fund (Benefits Fund). The amendment requires that payments made from the Benefits Fund to plans participating in the letter-of-credit account disbursement method be made only on a checks-presented basis (as defined by the Department of the Treasury). Consequently, plans would receive transfers of money only when actually needed by the plans to honor plan checks as they are presented for payment. Under existing practice, some plans have received transfers of money upon receipt of claims rather than issuance of beneficiary or provider payments.

Section 8007(d) amends 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 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. In light of the savings levels required, 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 $6.059 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 yeild savings of $648 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.

SUBTITLE F—MISCELLANEOUS

Use of Internal Revenue Service and Social Security Administration Data for Income Verfication

Section 11051 of the reconciliation legislation would amend paragraph (7) of section 6103(l) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7))—relating to disclosures of certain third-party and self-employment tax information (from the Commissioner of Social Security or the Secretary of the Treasury) to Federal, State, and local agencies administering certain programs under the Social Security Act (essentially Supplemental Security Income, Aid to Families With Dependent Children, and Medicaid), the Food Stamp Act of 1977, or the unemployment compensation program for purposes of income verification—so as to require disclosure to VA of (a) such information for purposes of determining eligibility for VA needs-based pension programs under chapter 15 of title 38 or any other law administered by VA, needs-based parents' dependency and indemnity compensation provided under section 415 of title 38, and

Reporting of Social Security Numbers by Claimants and Uses of Death Information by the Department of Veterans Affairs

Section 11053 of the Committee legislation would require mandatory disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Under this provision, VA also would be required to compare its records regarding recipients of VA compensation or pension benefits with records of the Department of Health and Human Services to determine whether any such VA beneficiaries are deceased.

Chairman Cranston, at the request of the Administration, introduced legislation (S. 1110) on June 1, 1989, which would require the disclosure of SSNs to VA in all claims for disability and death benefits. At that time, the Committee believed that VA had not provided adequate justification for this requirement and in an August 27, 1990, letter from Chairman Cranston, the Committee requested additional information justifying VA's need for the SSNs of VA-benefit recipients. That letter, and VA's September 26, 1990, response, follow:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 27, 1990.

Hon. EDWARD J. DERWINSKI,
Secretary of Veterans Affairs,
Washington, DC.

DEAR ED: On June 1, 1989, at the requst of the Administration, I introduced S. 1110, which would amend seciton 3001 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. Congress declined to include S. 1110 in veterans legislation enacted last year because the Committee believed that VA had not shown the report on S. 13 (S. Rept. No. 101-126, pages 98-100), the Committee directed that you 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 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.

Unfortunatley 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 of the Committee, at 224-9126.

Thank you, Ed, for your cooperation on this and other matters relating to the administration of veterans programs.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

THE SECRETARY
OF VETERANS AFFAIRS,
Washington, DC, September 26, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

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 reponsive 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 beneficiary information 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 beneficiaries in income verification processes, along with the estimated average monthly dollar amounts of the benefits involved.

The protocols 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 computer matches 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 matching file. We do not match on name alone. Depending upon the nature of records against which the match is being made, there may or may not be 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 determining the nature or extent of the problems or abuses in such cases.

The vast majority of our pension cases contain a social security number. Approximately 200,000 (8.0 percent) of the service-connected death and disability cases, however, lack this critical identifer. A study recently completed by the General Accounting Office illustrates one of the problems these cases present.

On July 27, 1990, GAO issued a report (entitled "VA Needs Death Information From Social Security To Avoid Erroneous Payments (GAO/HRD-90-119)") which recommended that Congress authorize VA to require social security numbers of all veterans and their survivors 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 1,600 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 involved service-connected death or disability benefits. Overpayments in these compensation and DIC cases totaled $456,000, an average of $6,039 per case. No pension cases were found to still be in payment status, in large part because the annual VA/SSA data match and the requirement for submission of an annual eligibility verification report served as mechanisms to ensure that the regional office obtained notice of the beneficiary's death. Over the years VA has used the annual SSA data match to identify needs-based with missing or incorrect social security numbers. Current regulations allow VA to require such beneficiaries to disclose their correct social security numbers.

At recent meetings, representatives of the Retired Pay Centers for the various military service branches again emphasized the importance and value of social security numbers in the VA/DOD data matches. 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 advantages that can be achieved when the beneficiary's social security number is a part of the claims record. Mandatory disclosure of this information for all beneficiaries would permit VA to improve current matches and provide a solid basis for additional matches.

Savings

Enactment of section 11053 would result in savings of $4 million in outlays in FY 1991 and total savings of $47 million in outlays for FYs 1991-1995.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 12, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation recommendations of the Committee on Veterans Affairs, as ordered transmitted to the Senate Committee on the Budget, October 12, 1990.

The estimates included in the attached table represent the 1991-1995 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals affecting spending. CBO understands that the Committee on the Budget will be responsible for interpreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

TITLE XI: PROVISIONS REDUCING SPENDING IN PROGRAMS WITHIN THE JURISDICTION OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

[Outlays in millions of dollars]

Section		1991	1992	1993	1994	1995	5-year total
	Direct spending savings:						
11001.	Limit compensation to certain veterans with estates	−125	−154	−160	−166	−173	−778
11002.	Eliminate pension disability presumption at age 65	−17	−39	−60	−89	−108	−313
11003.	Reduce pension to Medicaid nursing home residents	−22	−84	−131	−163	−139	−539
11004.	End benefits for remarried surviving spouses	−19	−45	−72	−107	−131	−374
11005.	Round down 4.5 percent COLA and cut 10 to 20 percent by $1	−18	−23	−24	−25	−23	−113
11011.	Medical care cost recovery	−113	−192	−218	−227	−240	−990
11012.	$2 medication copayment	−66	−78	−83	−89	−95	−411
11013.	Modify medical care categories and copayment requirements	−35	−41	−44	−47	−50	−217
11021.	Reduce education benefits between terms	−33	−44	−53	−61	−71	−262
11022.	Limit vocational rehabilitation to veterans rated 30 percent or more	−30	−70	−70	−71	−71	−312
11031.	File WHLP claims prior to resale	−4	−4	−3	−2	−1	−14
11032.	Increase loan fees by 0.75 percentage point	−94	−130	−104	−49	−25	−402
11041.	Limit plot allowance	−27	−30	−30	−30	−30	−147
11042.	Eliminate headstone allowance	−3	−4	−4	−4	−4	−19
11051.	Pension income verification	−28	−140	−195	−208	−216	−787
11052.	Secondary effects of willful misconduct	−70	−95	−63	−100	−126	−334
11053.	Require SSN's and match death records	−4	−7	−9	−12	−15	−47
	Direct spending total	−648	−1,120	−1,373	−1,450	−1,518	−6,059
	Authorizations:						
11002.	Eliminate pension disability presumption at age 65	2	2	2	2	20	10
11011.	Add 300 FTEE to collection activity of MCCR fund	0	9	9	9	10	37
11013.	Modify medical care categories and copayment requirements	−70	−82	−89	−96	−104	−441
11053.	Require SSN's and match death records	1	*	*	*	*	1
	Total authorizations	−67	−71	−78	−85	−92	−393
	Net Federal budget impact	−715	−1,191	−1,451	−1,535	−1,610	−6,452
	Impact on State governments	22	84	131	163	139	539

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Vol. 136 WASHINGTON, THURSDAY, OCTOBER 18, 1990 No. 141—Part II

Senate

(Legislative day of Tuesday, October 2, 1990)

OMNIBUS BUDGET RECONCILIATION ACT OF 1990
(Continued)

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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. HEINZ, Mr. MOYNIHAN, Mr. MCCAIN, Mr. PRESSLER, 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. . 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(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 a

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 and, indeed, begin to run the Government in the black.

The fact is that more than half of the annual Federal budget deficit is now hidden from public attention due to accounting tricks and quirks. To illustrate the problem, I would note that on July 16, Office of Management and Budget Director unveiled a reestimated, midyear fiscal 1991 deficit projection which he claimed to be $168.8 billion, excluding the megabillions to be spent on the S&L bailout. Mr. Darman's $168.9 billion figure depends on two things. First, it depends on counting off budget upward to $100 billion in S&L bailout spending in 1991, which is by no means a foregone conclusion inasmuch as, under current law, all future S&L spending will in fact be counted on budget. Second, it depends on counting on-budget the huge Social Security trust fund surplus. In other words, the game is this: Anything that decreases the deficit is counted on-budget, and anything that increases the deficit is put off. However, if we take the honest approach of putting S&L bailout expenses on-budget while putting the Social Security surpluses off-budget, then we see that the true fiscal year 1991 deficit estimate is closer to $400 billion—more than two times bigger than Mr. Darman's fanciful $168.8 billion.

Mr. President, in all the great jambalaya of frauds surrounding the budget, surely the most reprehensible is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit. As we all know, the Social Security payroll tax has become a money machine for the U.S. Treasury, generating fantastic revenue surpluses in excess of the costs of the Social Security program. Excess Social Security tax revenues were $65 billion in 1990 alone—boosted by yet another rise in the Social Security tax rate this past January 1. In fiscal year 1991, the surplus will be $73 billion. By 1993, the annual Social Security surplus will soar to $95 billion. The surplus will be $484 billion over the 5 years of this bill.

The public fully supported enactment of hefty new Social Security taxes in 1983 to ensure the retirement program's long-term solvency and credibility. The promise was that today's huge surpluses would be set safely aside in a trust fund to provide for baby-boomer retirees in the next century.

Well, look again. The Treasury is siphoning off every dollar of the Social Security surplus to meet current operating expenses of the Government. By thus reducing the deficit, we mask the true enormity of the Federal budget crisis while creating the illusion that Congress and the administration are actually doing something about deficits.

The hard fact is that, in the next century, the Social Security system will find itself paying out vastly more in benefits than it is taking in through payroll taxes. And the American people will wake up to the reality that those IOUs in the trust fund vault are a 21st century version of Confederate war bonds.

Of course, the Treasury would have the option of raising taxes to repay the astronomical sums we have borrowed from the trust fund. But that would be a brazen rip-off of working Americans, many of whom will be retirees obliged to pay a second time for the benefits they have already earned.

On the other hand, if the Treasury wimps out and chooses not to raise taxes to reimburse the trust fund, then there will be no alternative but to slash Social Security benefits. The most likely scenario is that Social Security payments would be turned into just another means-tested welfare program for the very poor; if you make more than, say, $15,000 per year, then forget about collecting any Social Security benefits.

Any way you slice it, it is lousy public policy to borrow massively from the Social Security trust fund with no credible plan for reimbursement. Of course, the immediate damage from this approach is that it allows us to mask the true scale of the Federal budget deficit, thus making it easier for us politicians to sit on our hands.

Now, Mr. President, objection was heard in the Budget Committee that removing Social Security surpluses from the deficit calculations would make the fiscal year 1991 Gramm-Rudman-Hollings target unreachable. Several Senators issued apocalyptic warnings that my bill would destroy Gramm-Rudman-Hollings because it does not provide for an extension of the Gramm-Rudman-Hollings deficit-reduction timetable. Yet, as a practical matter, this issue is now moot. The budget summit agreement, and now the House and Senate reconciliation bills, have ended any hope or expectation that we will balance the budget in the foreseeable future. Indeed, we no longer even talk about deficit targets. Instead, we talk about endlessly fudgeable spending-reduction targets, which means we can reach the spending-reduction target even though the deficit doubles, yet we can still say we have made the hard choices and done our job. I say this is all the more reason to protect Social Security by means of this amendment. With all restraints now gone, we have a special obligation now to safeguard the Social Security trust fund.

Mr. President, in our casual embezzling from the trust fund, we have committed a gross breach of faith with the American people. Social Security is perhaps the most successful social program ever enacted by the Federal Government. Without question, it is the most effective antipoverty program in history. Social Security is not charity or welfare. On the contrary, it is a supplementary retirement fund that workers pay for with their hard-earned money.

However, let's be under no illusions that this bill would put an end to the ransacking of the Social Security trust fund. It does not. Trust fund surpluses, which by law can be invested only in Government securities, will continue to be spent to meet the operating expenses of the Government. The only way to prevent the trust fund moneys from being spent in this manner is to change the law to permit investment of Social Security moneys in nongovernmental equity, a policy change I do not now recommend. However, this bill 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 surpluses: balance the Federal budget.

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 honest budget choices. By all means, let us begin by putting Social Security truly in trust and totally off budget.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I yield 2 minutes to Senator HEINZ. from Pennsylvania, and then I will yield to the distinguished Senator from New York.

Mr. HEINZ. Mr. President, I ask unanimous consent that Senator COATS and Senator KASTEN be added as cosponsors of the amendment.

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

Mr. HEINZ. Mr. President, I have spoken here on the floor about how our addiction to deficit spending has gotten us into the habit of misappropriating the Social Security trust funds, and its annual surpluses to cover up and hide the truth about the real size of the Federal budget deficit.

I have shown, as these charts once again illustrate, how much faster our national debt is growing than what we report as our deficits.

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 have is more than a vote to stop 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 SURPLUSES

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 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 we want our country to be.

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, end the practice of using these surpluses to hide annual deficits, and reduce and hopefully eliminate the public debt currently held by corporations, institutions, and most of all and increasingly, foreign investors.

This effort today is part of a larger understanding—a thoroughgoing orchestrated effort—to make truth in budgeting the standard against which Republicans and Democrats alike consider a budget and every budget.

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 earns on its investments—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 and grandchildren's future 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 more occasions than I can—or care to—recount, 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 quagmire this country is in deepens. Although the final figure has not 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 $94.7 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's interest payments alone—over $180 billion—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 beyond income. 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 political expediency whose guiding principle is not how to help our country but how to get through the next election with the greatest possible personal or partisan success.

Our failure to address the budget deficit has cost us and will continue to cost us real economic growth, the sort of growth 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. Since 1970, we have consistently run 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—investing in Government debt—and we wind up paying interest on the money we lost overseas becaue 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 shut 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.

The reason Japan exports so many cars to the United States is not because Japanese engineers are any smarter than our engineers or that Japanese workers work any harder than our workers. Our workers are the most productive in the world, but our car manufacturers and other heavy industries lack one competitive advantage that Japan has: cheap capital. Capital is the life-blood of any industrialized nation, and Japan has plenty of it. Why? Because the Japanese Government runs a budget surplus and Japanese individuals and businesses save and invest their capital in growth-creating businesses. In the 1980's, Japan and other industrialized nations have reduced their budget deficits and are, in some cases, running budget surpluses. In 1988, the Japanese ran a surplus representing 0.2 percent of Japanese gross domestic product; our budget deficit was 2.1 percent of our gross domestic product. At the same time, these countries have increased net national savings. For example, from 1984 to 1987, the Japanese net national savings rate was 17.4 percent; for the United States, the rate is 3.6 percent, almost five times less.

By running tremendous budget deficits, we force the American Government 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 or research and development. In the 1980's, U.S. short-term and long-term interest rates have consistently been almost twice as high as comparable Japanese rates. Because American industry is saddled with twice the interest costs of Japanese industry, our

productivity growth has slowed while Japan's had 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 restructuring 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 our deficit was $59 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 potential rainy day for Social Security. They are the actuarial projections set forth in 1983 program reforms for a flood of retirees with the aging of the baby boom in the next century.

As we know, these surpluses do not exist as real cash. They represent deposits to the U.S. Treasury which are immediately credited to the Social Security trust funds. Since the U.S. Treasury has the use of the cash, they immediately start paying interest on these balances. Similarly, the interest is never transferred to the trust funds as cash, but is, like the original deposits, credited to the Social Security trust fund accounts by the Treasury. And, in turn, since the Treasury again has the use of the cash they would otherwise have paid, interest is earned on the interest credited. While these are the realities of U.S. law, making the U.S. Treasury our Government's single payee and payor and handler of cash, and the requirement the trust funds always be invested, the figures, even if all only on paper, are no less real. After all, the laws we make in this body are only on paper. They are no less real for that, either.

Since 1983, when we may have saved the Social Security goose, we have systematically proceeded to melt down and pawn the golden egg. It doesn't take a financial wizard to tell us that spending these reserves on today's bills does not bode well for tomorrow's retirees.

Congress didn't originally intend to mislead or deceive the American public when it enacted Gramm-Rudman-Hollings, Mr. President, We may plead innocent to malice aforethought, but must stand guilty of conscious deceit in present practice. We have willfully put off tough choices and attempted to make ourselves look good by spending someone else's money—that of the American worker's today and that of our retirees of tomorrow.

We have dealt in half truths for too long. We have dammed up the river of future investment capital in an ocean of debt. We have all but sucked dry the retirement security of generations in our thirst for new spending in an era of drought of new revenues.

It is time for this administration and this Congress to acknowledge the whole truth of our budget crisis and to build a bipartisan solution based on that truth. This means, for starters, that we remove the Social Security Trust Funds from all budget calculations beginning with the fiscal year 1991 budget.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, earlier this year, the 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 favorably report Calendar No. 812, S. 2999 by our distinguished chairman of the Budget Committee, Senator SASSER. 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 LEVIN, Senator KERRY, Senator JEFFORDS, Senator DECONCINI, Senator SIMON, Senator RIEGLE, Senator BRADLEY, 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 bill—the Social Security Integrity and Tax Reduction Act—would have 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 misusing of Social Security trust funds have changed, and I am proud to be an original cosponsor of this important measure. Senators HOLLINGS', MOYNIHAN's, and HEINZ'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, is a significant and rapidly growing part of the coverup.

However, removing Social Security alone will not prevent the White House and Congress from continuing to conceal a significant part of annual debt increase, it simply reduces the amount we can conceal. Another giant step needed to prevent the creative accounting of other Federal retirement programs and interest earned by them.

During the past decade nearly $1 trillion of debt increase has been excluded from our deficit calculations. We have fooled the public into believing that our annual deficits were declining while, all the time, our annual debt increases—our real deficits—have been climbing. This misleading of the public must stop

A truly honest accounting of the Federal budget requires the use of a deficit figure that fairly reflects annual debt increase. Redefining deficit as such, without the use of any Federal retirement programs, is our next giant step.

Mr. DOMENICI. Mr. President, I support taking Social Security out of

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 amendent 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 REDUCTION

The issues involved with 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 bilion 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 not 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. COHEN] be added as a cosponsor.

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 ultimatley 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

Adams	Fowler	McClure
Akaka	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	Wirth
Ford	McCain	

NAYS—2

Armstrong	Wallop

So, the amendment (No. 3033) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If we can have order in the Chamber so Senators can be heard.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment just agreed to.

The PRESIDING OFFICER. With-

AMENDMENT NO. 3035

(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. RIEGLE, Mr. SIMON, Mr. BRYAN, Ms. MIKULSKI, Mr. KENNEDY, Mr. AKAKA, Mr. HATFIELD, Mr. DECONCINI, Mr. GRAHAM, and Mr. ADAMS, proposes an amendment numbered 3035.

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. 6162. 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. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. 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 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

"(2) the total amount of such taxpayer's alternative minimum taxable income for such taxable year.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(j), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator is entitled to 5½ minutes under the previous order.

Mr. DOMENICI. I wonder if the distinguished Senator will permit me to make a request so that somebody will manage the bill in my stead.

Mr. HARKIN. Not on my time. I don't have much.

Mr. DOMENICI. Not the Senator's time. I designate Senator DANFORTH of Missouri to manage the time and the subject matter on our side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa [Mr. HARKIN] may proceed for 5½ minutes under the previous order.

Mr. HARKIN. Mr. President, I am offering this amendment on behalf of myself and Senator RIEGLE as well as Senators SIMON, ADAMS, BRYAN, MIKULSKI, KENNEDY, AKAKA, HATFIELD, DECONCINI, and GRAHAM.

Mr. President, our amendment is very simple and straightforward. It would ease the burden in this package on the elderly sick and ask the richest of the rich to pay a fairer share. Specifically, it would eliminate the doubling of the Medicare part B deductible from $75 to $150 called for in the bill and replace those revenues with that derived from imposing a surcharge of 18 percent on the income tax paid on taxable income over $1 million a year. This would mean a tax rate of 33 percent on taxable income over $1 million a year.

The basic elements of our amendment were adopted by the House. So what we are proposing is nothing new. In fact, our amendment results in an effective tax rate of 2.6 percent less on this income than the bill passed by the House.

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 Autoworkers, 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 indicates, while 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 this. 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 heating costs and several trips to the doctor, 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 literally millions of older Americans 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 $9,000 a year or $750 a month. For about two-thirds of older Iowans, their monthly Social Security check—which average $560—is their main source of 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 by more than half. And the 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 with not paying its fair share. We raise the funds to reduce 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, decamillionaires 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 the unfair drop in 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 superrich—those who earn, after all of their deductions, exclusions, and other benefits and loopholes that their accountant can find, more than $1 million in a single 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 per year. Their families live on at least $200,000 per week.

And they include:

The head of Reebok International, who had a total salary and compensation from the company of $14,606,000 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 BHC Industries, with salary and compensation of $13,687,000;

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 citizens cutting back on heat 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. Instead of 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. Plain and simple. It says that those who have benefited the most over 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 remaining?

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 5½ 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 5½ minutes to talk about 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 here, 10.9 percent; second is 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 first deductible in 1965, when we first had Medicare, was $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 deductible and the coinsurance 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 work force 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 beneficiaries under Medicare, and 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. DANFORTH. I yield that to the Senator from Minnesota.

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 concerns expressed by your aged constituents over alleged cuts in the Medicare Program. Unfortunately, the term "cuts" as the average person understands it and as budgeteers use it are two different things. When we talk inside the Beltway about cuts in Medicare we mean reductions in increases in areas such as provider payments, not reductions in benefits or services. This is poorly understood outside of Washington and has raised false alarms among our older citizens who fear wrongly that we are retrenching on our commitment to the Medicare Program. The fact is we are taking important steps to sustain the future viability of the program. The truly unfortunate aspect of this is that these needed policy changes have to be done on the annual budget bill, which causes them to get caught up in deficit reduction rhetoric, rather than being evaluated on their own merits.

For instance, the Finance Committee package takes serious steps 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. These include phasing out unsupportable differentials in prospective payments to rural and urban hospitals; eliminating the arbitrary 210-day limit on hospice benefits for the terminally ill; authorizing assitance 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 Medigap 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. We also worked to address problems plaguing the prepaid health care contracting program in order to improve the availability of managed care options for Medicare beneficiaries.

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 1966, 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 1989, 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. This 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 yearly, 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 renal disease enrollees and 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 one-half of the costs of the 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 $28.60 a month or $343.20 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 850 percent. The deductible has grown only 50 percent. Let me highlight 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 $736, 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 entirely consistent with 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, the Federal Government and the States share in the costs of relieving low-income beneficiaries of their Medicare cost-sharing liabilities.

Mr. President, I congratulate my colleague, Senator DANFORTH, not for his colorful presentation, but for his sense of realism. We are not doing a deductible on medicare here to cut the deficit. We are doing a deductible on Medicare because it is the only time we can do Medicare. This the only time we can improve the Medicare Program for the 33 million elderly in America.

The reality of those charts show us that, while the percentage of the $75 deductible has remained the same for 14 years for 33 million elderly, it has gone up by almost 1000 percent, on the average, for all working Americans. We are just trying to make this an insurance program which it is supposed to reflect some of the realities and to protect the elderly of America from the usual deductibles that you see in all other health insurance plans.

So I urge opposition to this amendment. I am in favor of tabling it.

The PRESIDING OFFICER. The Chair informs the Senator from Missouri that the time allocated to him has expired.

The Senator from Iowa has 2 seconds remaining under this control.

Mr. SASSER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN] is recognized for 42 seconds.

Mr. FOWLER. Mr. President, may we have order?

The PRESIDING OFFICER. Senators are urged to carry on their conversations in the cloakroom or off the floor so the Senator may be heard.

Mr. HARKIN. Let me state for the record, the last thing I want to do is cause anyone any discomfort here on the floor or put anyone in any bad position or situation. But I must say I feel very strongly about this. I feel this is an amendment that really speaks for itself and one which, I believe, can give direction or guidance to the conferees and one which I believe has the support of the largest cross-section of the American populous. If I did not believe so, I would not have offered the amendment in good faith.

But I do believe this is something that this body ought to speak on very loudly. I hope Senators can support it because it does speak about basic fairness and equality in our society.

Mr. RIEGLE. Mr. President, I am very concerned about the impact of Medicare cuts on senior citizens and disabled persons. The total Medicare cuts are $51 billion over 5 years. The Senate Finance Committee package has $34 billion in cuts to providers. In addition, this package takes $17 billion directly out of the pocket's of beneficiaries by raising the part B deductible for doctor bills to $150 per year, an increase of $75; maintaining the part B premium at 25 percent of program costs; and imposing a 20-percent coinsurance for labs fees.

One of the most problematic Medicare cuts is the increase in the part B deductible. Medicare beneficiaries would have to pay $150 out of their own pockets before Medicare would pay for their doctor bills. This is twice the current level of $75 a year.

Increasing the part B deductible hurts only those Medicare beneficiaries who are sick and require health care. Seventy-five percent of seniors are expected to pay the full deductible every year because of their immediate health care needs. It takes needed out-of-pocket income away from our Nation's sick seniors and disabled people

in the same way as a cut in the Social Security COLA.

Our proposal 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 enacted over the past 6 years are projected to be almost $12 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 $75 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 translates to an over 20 percent 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 are expected to pay the full deductible of $150 per year.

The cost to the average senior citizen under the Medicare part B program has been growing over the last 20 years. Seniors already lose part of their Social Security benefit to high Medicare costs. The current total out-of-pocket costs for seniors—$803 a year—is greater than an average monthly Social Security check of $600. This reduces the average total Social Security benefit by 11 percent a year. Social Security is the major source of income for the majority of seniors in this country. Social Security provides over one-half of total income for 61 percent of beneficiaries and contributes almost all of the income, 90 percent or more, for one-fourth of Medicare beneficiaries.

Low-income people will be more adversely affected by these cuts. They are more likely to rely on Social Security. In the finance bill, we accelerate Medicaid coverage for those below poverty by 1 year and give States the option to cover seniors with incomes up to 125 percent of the poverty line. This option is not enough. Only 210,000 near poor seniors are anticipated to receive benefits. There are, however, 2.3 million near poor seniors with incomes above poverty but less than 125 percent of the poverty level. The House requires Medicaid coverage, with full Federal financing, for low-income seniors with incomes up to 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, these increased Medicare costs will also lead to increased Medigap premiums for the majority of seniors who purchase Medigap insurances to supplement their Medicare benefit. If these provisions are enacted, it will be even more critical that we enact Medigap consumer protection provisions that the Finance Committee has been developing.

The Finance package includes provisions to prevent fraud and abuse in the Medigap supplemental health insurance market. It prohibits the sale of policies that duplicate benefits and provides stronger enforcement mechanisms than currently exist. A provision I authored to simplify the Medigap insurance market is also included. Simplification would result in standard alternatives across States so seniors can compare policies and get the most value for their money. Currently, there are hundreds of competing, nonidentical policies which consumers cannot evaluate. My provision simplifies a confusing and complicated system.

Mr. President, we are substituting for these cuts a surcharge that would raise the bracket for taxpayers with taxable incomes above $1 million. It would create a new marginal tax rate for these individuals of only 33 percent. As you can see, the tax rate on those earning more than $1 million is still 3 percent below the 36.3 percent amount in the House bill as a result of their imposition of a surcharge.

This proposal is more like bursting the bubble, but at $1 million. The wording in this amendment with respect to whom the surcharge would apply is the same as that contained in the House reconciliation bill. Individuals, estates, and those subject to the alternative minimum tax [AMT] would be treated as in the House bill.

In the name of fairness and equity, this amendment should be passed. Some say that this amendment sticks it to the rich. This represents a slight and modest tax increase on the wealthiest people in our society and reduces the burden placed on many in our society who can least afford cuts in Medicare.

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're 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 3½ trillion bucks 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 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 that so clearly understood that is where the money is. And—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 media has a field day, blasting our 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—there are rich elderly, too—and they now can have 75 percent of their Medicare payments subsidized by Joe—and Josie—Six Pack. 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 our current spending—and that, I remind 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—$49 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. Nine dollars and eighty cents over 5 years. 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 annual income would have increased by nearly $800 by 1995. Your Medicare premiums, part B, voluntary Medicare premiums, would have gone up by only $9.80.

In addition, Medicare part B deductibles would be increased from $75, where it has been since 1982, 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.

Mr. President, I recall that, in December 1987, we faced a vote on whether agricultural corporations with gross receipts over $50 million should be required to switch to the accrual method of accounting, that is, whether they should stop being treated as family farms and thereby stop receiving millions of dollars in tax benefits. The Joint Tax Committee estimated that tabling that amendment cost $300 million in revenue over 3 years—revenue that we are now having to make up for in part with cuts in agriculture. The Senator from Iowa, now indignant and passionate over insufficient taxation of the rich, voted to table that measure and to give these huge agribusinesses a huge tax break at the eventual expense of the little guy family farmers.

So sometimes we forget about when and how we're defending 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 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 right back into the Treasury of the U.S. Government.

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 Six Pack. How many of those 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 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 Six Pack and paying 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 entitlements system 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 if we have increases in Medicare expenses of 11.6 percent a year forever? And 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 effect 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. KENNEDY. Mr. President, as this amendment demonstrates, the budget reconciliation package raises numerous concerns about how the Nation will be able to meet the basic challenges that face us. Health care for the elderly is one of the most important of these challenges, but there are many others in areas such as education, housing and the homeless, and crime and drug abuse.

In my view, the reconciliation package places needless restrictions on our ability to meet these 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 threatening every American family; 37 million Americans have no health insurance coverage. The AIDS crisis has infected one and a half million Americans and threatens to bankrupt health institutions in major cities and rural areas across the country.

We have schools where half of the children never graduate. Early childhood education is an important tool—yet only a quarter of eligible children are served by Head Start—one of the most successful programs.

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.

Yet the wealthiest Americans have seen their taxes decline, and we spend billions of dollars on cold war weapons that demonstrates our mislead priorities. It is essential, as we move ahead to implement whatever budget aggreement 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.

Under 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 program costs, and requiring a copayment for laboratory costs. The Finance Committee package reduces that burden somewhat by approximately a third, raising $17.6 billion from beneficiaries, but it is still grossly unfair to millions of senior citizens.

The Medicare part B deductible is the amount that elderly and disabled beneficiaries pay out of their own pocket 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 proposal adopts the same increase. That increase leaves the elderly with a difficult choice. They will have to ask themselves in the future whether they are "$150 sick" before they decide to see a doctor. As a result, many will delay seeking health care they need.

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 have moderate incomes that are, on average, lower than the general population.

Another factor we must consider is the increasing cost of private Medigap coverage. Last year, many plans imposed increases of up to 40 percent on elderly policy holders. It adds insult to injury for Congress to increase the Medicare deductible. Eighty percent of the elderly have secondary coverage with either Medicaid or Medigap, but 20 percent of the elderly rely solely on Medicare for their health care protection.

For a decade, one of the highest priorities of Reagan 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 passed legislation capping the premium increase at the percentage increase in the Social Security COLA.

As a result of this cap, the share of part B program 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 covered by the premium. Congress never adopted the full 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 raise the linkage 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 linkage with the Social Security COLA.

The House package is preferable. It includes only $10 billion in beneficiary savings. It increases the deductible to $100, and the part B premium is held to 25 percent of program costs.

All three of the budget packages include 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 to $89,000, raising $19 billion. The House Democratic package would increase the cap to $100,000, raising $22 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 beneficiary 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 premiums 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 conferees 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:

REVENUE RAISED BY RAISING THE HI TAXABLE CAP FROM CURRENT LEVEL ($54,300 in 1991)

[In billions of dollars]

	Fiscal year—					5-year
	1991	1992	1993	1994	1995	
$73,000	0.9	2.7	2.9	3.1	3.3	12.8
Budget Summit						
$89,000	1.3	4.0	4.3	4.6	4.8	19.0
Finance						
$90,000	1.3	4.1	4.3	4.6	4.9	19.3
$100,000	1.5	4.7	5.0	5.3	5.6	22.0
Rostenkowski Plan						
$110,000	1.7	5.1	5.5	5.8	6.2	24.2
$120,000	1.8	5.5	5.9	6.2	6.6	26.1
$125,000	1.8	5.7	6.1	6.4	6.8	26.8
$150,000	2.3	6.4	6.8	7.3	7.7	30.6
Repeal	3.5	9.9	10.5	11.3	12.0	47.2

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 budget-cutting burden 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 integrity of these programs must be guaranteed. This amendment to eliminate the $75 per year increase in the Medicare part B deductible contained in this budget package is the bottom line for me.

Put simply, this amendment is absolutely essential to the health and well-being of our Nation, and I am pleased to add my support and cosponsorship to it.

Under this omnibus budget reconciliation bill, Medicare beneficiaries would have to pay $150 out of their own pockets before Medicare would pay their doctor bills. This means an increase of $75 per year for our senior citizens—an increase of 100 percent. This increase will have a disastrous effect on our elderly—particularly the hundreds of thousands of whom live at or below the poverty line.

To them, Mr. President, this deductible increase has the effect of a Social Security COLA cut in excess of 20 percent, for a person paying the full deductible.

Why Mr. President? Why should this burden fall unequally on our elderly? Many of my constituents ask me why Medicare seems to be easy prey for cuts every budget cycle. The reason, of course, is that the sheer size of the program makes it an attractive target. We all know that entitlement programs are growing by leaps and bounds, seemingly out of control. But instead of attacking the easy target for cuts, we must responsibly address the question of cost-containment. That's not what this package does.

I know, Mr. President, that the future growth predictions for Medicare are disturbing. If current growth trends continue, by the year 2004 the Medicare budget will equal the size of the defense budget of $300 billion; by the year 2012, medicare spending will exceed the combined budgets of the Social Security Administration and the Department of Defense; and by the year 2040, our entire GNP will go to Medicare.

As these alarming figures show, the issue of cost-containment cannot go unaddressed any longer. Instead of sacrificing our elderly, we must responsibly take action to reduce costs by strengthening our knowledge and our approaches to human needs.

I stand before my colleagues today as an advocate for the cost control which comes through medical research. Only through our investment in medical research can we find preventative treatments and cures which will reduce the future costs of health care. I have consistently fought for increased medical research funding and have been successful in obtaining increases for research on Alzheimer's disease and other aging-related ailments.

This year has been one of tremendous progress on these fronts. The Comprehensive Alzheimers Assistance, Research and Education Act [CARE],

which I introduced with Senators METZENBAUM, GRASSLEY, and HARKIN, has been unanimously reported by the Senate Labor 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 the needs of the elderly are met in the most effective and efficient manner possible.

This year alone, the Senate provided $15 million above the President's request—and $144 million over the 1990 funding level—to ensure that Medicare claims receive prompt and adequate attention.

Mr. President, I have laid out all these programs and initiatives to make a point: We have been moving forward. We've made tremendous progress this year—we've made a real commitment to the health and security of this Nation's older citizens. But this omnibus reconciliation bill is about to take us backward.

More to the point, it moves our senior citizens backward. Back into poverty—and back into the fear of not knowing how to make ends meet from 1 week to the next. That is clearly the wrong direction to take and the adoption of this amendment will correct it.

The PRESIDING OFFICER. The Chair informs the Senator his time has expired.

Mr. SASSER. Mr. President, I ask unanimous consent that the distinguished majority leader be recognized and the time not be charged against the amendments to follow.

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

The majority leader is recognized.

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?

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 medicare 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.

POINT OF ORDER: CONGRESSIONAL BUDGET ACT

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. SASSER. Pursuant to 305(b)(2) of the Budget Act, I raise a point of order that the pending amendment by the Senator from Iowa is not germane and I ask for the yeas and nays. I vitiate the request for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The request is so noted. The point of order is raised.

The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If the Senator will suspend, the vote will occur under the previous order in sequence as originally requested pursuant to the unanimous-consent agreement.

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. ROBB). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—49

Adams	Graham	McConnell
Akaka	Grassley	Metzenbaum
Baucus	Harkin	Mikulski
Biden	Hatfield	Pell
Bingaman	Heflin	Pressler
Boschwitz	Hollings	Reid
Bradley	Jeffords	Riegle
Bryan	Johnston	Rockefeller
Burdick	Kennedy	Sanford
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Specter
DeConcini	Leahy	Warner
Dixon	Levin	Wilson
Exon	Lieberman	
Gore	McCain	

NAYS—51

Armstrong	Bumpers	Cochran
Bentsen	Burns	Danforth
Bond	Byrd	Daschle
Boren	Chafee	Dodd
Breaux	Coats	Dole

Domenici	Inouye	Packwood
Durenberger	Kassebaum	Pryor
Ford	Kasten	Robb
Fowler	Lott	Roth
Garn	Lugar	Rudman
Glenn	Mack	Sasser
Gorton	McClure	Simpson
Gramm	Mitchell	Stevens
Hatch	Moynihan	Symms
Heinz	Murkowski	Thurmond
Helms	Nickles	Wallop
Humphrey	Nunn	Wirth

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, Members of the Senate, 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 BENTSEN 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. 3046

(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. BENTSEN, proposes an amendment numbered 3046.

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

Finance Committee, that he can enter into a colloquy? That time will be divided? During the hour, how will one obtain time?

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 that there be 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 amendment 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 who put 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 germane. I stated it in 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 most 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 in October on a process 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 upon the Office of Management and Budget and 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 interest of those Senators who want to have time to debate it. Under the rule, there would be no time for that purpose. The objective 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 chairmen 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 President's top negotiators 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 welcome to stand corrected. 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, and then I will speak generally. Over the past 3 months 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 adopted 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 not going to vote 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 involved 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). Is there objection to the request of the majority leader?

Mr. STEVENS. Is this the request for no amendments?

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. 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 fron New York that I hope 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.

[Laughter.]

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 represented 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 chairman of the committee. I thank the President.

Mr. President, we are told that 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 graced our aisles.

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 the Capitol. Further, that last-minute changes were made by the Budget Director at the White House during an all-night meeting determining whether 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 kind was being written in the Republican cloakroom, the first budget process reform, the Gramm-Rudman legislation, I said, "Never, not ever in our wildest imagination have we thought that such a device would be used to force unconsidered and in my view ill-considered legislation in the Congress. No hearings have been held on this proposal. No definition settled, no real understanding of what is involved. Indeed, the 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. Since we first enacted 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. Zero.

In 1986 we set the targets which led us 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 time 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 minimum $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. But 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 40 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 thing. We are letting the legislative process disappear from this body.

The New York Times after the Senators returned under guard, or at least by military vehicle, from Fort Andrews, 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, excepting 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 scarcely read and only 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 really meant let us, let me 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 this is—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, 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 right to return to Capitol 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 his 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 of 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 no sequesters. 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 me 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

Senator that the 10 minutes yielded to the Senator have expired.

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 that I had 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 figures were. The public 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 true deficits, piling up an 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 will 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 deficit, $500 billion in reductions of 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 simply 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 limousines do not pull up to the Federal Reserve building, and our bonds do not get bought. If that happens, 1929 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.

I 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 a 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 shown by the fact 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 executive and legislative action 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 diagnosis? Our prescription is to eliminate 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 even the deficits of the last 10 years 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 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.

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 those are going to be outside the spending limits, outside the deficit targets, since there are no deficit targets.

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, that 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 fell from grace in 90 years, in large part because it did not have a capacity to exercise some discipline, some sense of vision, some direction, to its national purpose.

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 proudest 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.

The Senator from Minnesota.

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 reelect the President. If we do that, 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 part of the bill that I know is 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 amendment. The first outrage 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 a vote of 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 sequesters 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 sequester 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 ironclad guarantee. You cannot 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 gunfight 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 remind 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 a 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.

The PRESIDING OFFICER. The time has expired.

Who yields 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 $262 billion. Now, this amendment says don't worry about deficit targets, and it quote-unquote "holds harmless" hugh chunks of Federal spending.

Well, that reminds me of the insurance 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, armed with his fairy dust economic and technical misestimates. So OMB will now be in the driver's seat.

I am really amazed that some of the very people who are so outspoken and dogged about defending the prerogatives of the U.S. Congress have now yielded over to the executive branch this massive discretion and power. The Republican minority takes total control.

Mr. President, this amendment presents us with a formula for a gridlocked Congress and a do-nothing Government for the next 5 years. It also grants three-way veto authority to a willful minority in Congress. Take your pick from the Sununu veto, the DOLE veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator DOLE, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

Meanwhile, the Senate Budget Committee will be reduced to automatic pilot. It will be stripped of any meaningful role in establishing budget priorities, and will quickly fall into irrelevance.

What we have here, as the Senator from New York says, is a statutory enactment of the reelection of the President. That is all they had in mind.

You do not see Senators jumping up over there on the other side of the aisle. They know that they are holding four aces. They say hush your mouth; if we can get this in here, we have a hammerlock on the government for 5 years. They don't have to worry anymore about November 6 and how many seats they can pick up, because this gives them minority control from the White House, and particularly with this so-called budget process reform.

It is a scandal, if you study it closely. They put the S&L bailout mostly on budget because the deficit levels don't matter under this new budget regime.

This amendment essentially guts the original focus of Gramm-Rudman-Hollings. Heretofore, Gramm-Rudman-Hollings has been premised on specific targets aimed at achieving a balanced budget. That is now gone. In its place, this amendment 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 skyrockets to $253 billion. By 1995, the last year of this plan, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding the S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this approach.

That is scandalous, I can tell my colleagues here right now. I have worked in this field as long as anyone in this 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 the 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.

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 BYRD, who spent untold hours on this process. I just want to tell my 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 unable to get our business done early in the year because we could not get budgets through this place and through the U.S. House. We had a crisis and we were languishing. We were going to get nothing done.

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.

That set in motion a process of trying to get together on the budget of the United States, with three groups participating: The House, the Senate, and the President and his people, with Democrats and Republicans participating.

We set an agenda. Let us reduce the deficit. Let us see what we can do with entitlements. Let us see what we can do with revenues.

We put a great big red mark, let us reform the budget processes. So we can tell the public that what we have produced is more credible than the past.

With that background, negotiations went on for a long, long time. The Budget Committee held hearings on budget reform and budget packages while that was going on. And all kinds of ideas were there.

What we decided to do essentially in this package seems complex, but is simple. We said we are going to try to have a 5-year plan. That is point No. 1. Point No. 2, we are going to try to divide the Federal Government into

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 each year 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 appropriating you have met the target. And, if you have not, no bill, no line item veto, no rescissions. Instead, the entire sum of appropriated accounts, 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 for entitlements in the future. If someone wants to put new 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 recognize some shortcomings of Gramm-Rudman-Hollings. We modify it annually for the first 3 years, if the economics change, or if technicals 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 that cause the sequester numbers to change. We did that.

We then put in credit reform that everybody is telling us we must do. We took Social Security off budget just like Senator HEINZ and Senator HOLLINGS asked us to do. And, from what I can tell there may be some other parts that are details, but that essentially is it. And anyone who says this is not a better process than we have had in the past, and that it is calculated to do this package in rather than to make it enforceable, I truly do not believe they have looked at it. We would be pleased to discuss it more with them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, let me just say a few things here. I think the distinguished ranking member has done an excellent job in generally outlining the parameters of the package. But let me just answer a couple of things that have been said.

First, with regard to whether or not hearings have been held on this matter, there were 2 days of hearings, joint hearings between the Governmental Affairs Committee and the Budget Committee, several months ago. Some Members who are critical of this package here this evening testified at those hearings and some of the suggestions that they offered at those hearings are included in this particular budget reform package.

We held a markup in the Senate Budget Committee in which certain portions of this package were discussed there, not as parts of this package but as parts of other Member's views of how the budget process could be improved.

Some of those items have been incorporated here. As the distinguished ranking member from New Mexico said, the concept of the Senator from South Carolina and others to take Social Security off budget and out from under the calculation of the Gramm-Rudman-Hollings targets has been done.

We now see for the first time OMB starting to tell us precisely what the deficits are with three different sets of numbers. One with Social Security and RTC, with Social Security counted to offset the deficit and with RTC off budget; then they come with another set of numbers that show us with Social Security now off budget, with RTC on budget, and so on. So we get a fair picture of precisely what the deficit actually is. There are a number of provisions in here that Members have suggested.

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. Without objection, it is so ordered. The Senator is recognized for an additional 3 minutes.

Mr. SASSER. Mr. President, I think the distinguished chairman of the Appropriations Committee would be the one to discuss some of these matters. But to suggest that the distinguished chairman of the Appropriations Committee, ROBERT C. BYRD, and the distinguished chairman of the Senate Finance Committee, LLOYD BENTSEN, and the majority leader, Senator MITCHELL, and even myself were taken off to some military base and hoodwinked, that we did not know what we were doing, that ROBERT C. BYRD was taken advantage of by someone who manipulated the rules, that suggestion is absolutely laughable. If I have ever known one individual who knew the rules, and knew how to write them, and knew how to interpret them for the advantage of the U.S. Senate, and those he represents in the U.S. Senate. I think we would all have to agree it is the distinguished Senator from West Virginia [Mr. BYRD].

One of the interesting things we are going to find in this budget package that we present here this evening is that no longer can OMB come forward with one set of economic assumptions in January and predict the deficit is going to be so much in January, allow us to mark up a budget to that particular deficit number, and then come along 3 or 4 months later and say the economic assumptions have changed since we submitted our budget. And now you the Congress have to make that up and you have to reduce the deficit about three or four times more than we had it reduced in the administration's budget.

From now on, under this particular budget document, we will all be singing off the same sheet of music. We will all be using the same economic assumptions to arrive at what deficit savings need to be made.

Mr. President, I think that pretty will covers some of the points I wanted to make. Do we have other Senators who wish to be recognized on the other side of the aisle?

Mr. ADAMS. Is the Senator proceeding to answer questions?

Mr. SASSER. If the Senator will withhold, we have a number of other Senators who have requested time. Senator SIMON, I see, is on his feet. At the appropriate time. Mr. President, I am going to ask for some additional time for the distinguished chairman of the Appropriations Committee.

Mr. HOLLINGS. Parliamentary inquiry. I do not want to be presumptuous. A point of order under 305(b)(2) can be made at the expiration of the hour; is that correct? I make that parliamentary inquiry.

The PRESIDING OFFICER. A point of order can be made at that time.

Mr. HOLLINGS. When is that time? I think it has to be made before the perfecting amendment. That is why I make the inquiry here. I am not trying to cut anybody off, but then I do not want to be told it is too late.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. It has expired?

Mr. SASSER. Will the Senator withhold?

Mr. HOLLINGS. I withhold. The Senator from New Mexico probably has some time left.

The PRESIDING OFFICER. The Senator from New Mexico has 17 minutes remaining.

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 after that point of order there still 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.

Let me just ask 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 15 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 $165 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.

As I read 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; am I wrong? 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 legislation 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. There was a constant concern that the sequester process penalized 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 can we cut?" Gramm-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 applies to entitlements. 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 minisequester you are referring to will only be impacted if the entitlements do increase because of policy changes. If something else causes it to be over, like economics, this does not apply.

Mr. STEVENS. That is what I thought. As a matter of fact, it does not take care of an S&L type loss at all. So the next year we come around and guess what he tells us? You have to pay interest on $165 billion you did not take care of and, by the way, boys, now you must take care of this. You must take care of it. You must reduce discretionary accounts; you must reduce defense spending. We are on a balanced-budget concept, are we not? Does this not presume a balanced-budget concept?

Mr. DOMENICI. I say to my colleague, it takes everything we know that 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 interest.

Mr. STEVENS. I want to tell my colleagues that this proposal will not take care of an S&L-type crisis automatically; is that right? Is that the answer?

Mr. DOMENICI. It will not take care of it automatically. We are not going to go to a sequester because of it under the Gramm-Rudman targets, if that is what you have in mind as automatically. It will not. But we intended it not. This was intentional. We did not want to have a sequester of the appropriated accounts based upon an S&L crisis. That is why we worked so hard.

Mr. STEVENS. I thought one of the reasons we were here on a 5-year plan was to try to find a budget plan that would, in fact, take care of the S&L crisis we have now. At the end of the 5 years, theoretically we have made up for this, have we not?

Mr. DOMENICI. Absolutely correct.

Mr. STEVENS. This plan does not take care of the main problem we have today.

Mr. DOMENICI. The Senator was asking about an unknown S&L crisis. All that we have funded and know about are in this budget, taken care of, and we meet the targets.

Mr. STEVENS. I accept that answer, and I will comment on it later if I offer an amendment.

Let me ask about the multiyear aspect. If we look at this proposal, this is now a multiyear prospect. It strikes out 2 years and inserts 4 years. Would someone explain that to me? Why do we have to have a 4-year concept in the permanent law now in dealing with this? I will be glad to give the correct page. If you look at page 35, you have planning levels for each of 2 years, you knocked that out and you insert in place of that 4 years. We do not have the advantage of a full text. We have a series of amendments that deal with existing law. We have not had time to compare this really to existing law. I do not understand the necessity for having a 4-year planning level in a budget package that I thought was dealing with 5 years.

Mr. DOMENICI. This is 1 year, the year we are doing plus 4 equals 5 and that is how we got to 5.

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.

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.

Mr. STEVENS. Answer me another question. I am sorry to perplex my friend and to confuse this matter. Again, I read a summary of the budget summit agreement that was given to us, and I find that the amendment as offered tonight is nowhere like the summary. For instance, there is no automatic reconciliation instruction for revenue decreases in this proposal I can find. It is out now, right? Things we read were going to be here are not here.

Mr. DOMENICI. I think I know a little bit about this and if I sound con-

fused I apoligize, 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 39 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, we cover the first year and write a resolution that covers four additional years, so it is a 5-year budget resolution. And we do that every year. So if we write one next year, it will be for 1 year longer than this budget agreement. What we have 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 supermajority.

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 for a question?

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 people 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. One of the things I have concerns about is the schedule that says the next Congresses 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 this 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 also, and entitlements need protection. I do not question that. What I question is why a group of grown people need to put parameters around themselves 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. Does 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 an old 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 rulemaking part of the process of the two Houses of Congress. That is what is was, rulemaking. And yet as I understand this, as the Senator 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 rulemaking power capacity, concurrent resolutions, and established permanent law which controls all budget and appropriation processes. I am deeply 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 trying 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.

Mr. HOLLINGS. Point of order, Mr. President.

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 rulemaking 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 Senate would consider yielding an additional 10 minutes to the distinguished chairman of the Appropriations Committee.

Mr. SIMON. 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 monumental 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. The Senator 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 necessary?" My question is, is it 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 pages 11, 12, and 13. 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 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, 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 a 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 fundible 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——

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 DOMENICI. 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 allocation, and it will 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 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 sums 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 the costs are going to be. We cannot predict what is going to happen in the desert.

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 supplementals, 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 we are assuming a new obligation for a 5-year period that we have not had, before we vote on this amendment. 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?

Mr. BYRD. What we are talking about here, insofar as my part is concerned, is discretionary enforcement. We are not talking about budget process reform.

I know where that term got started. The President had much to say about the need for budget process reform. It was all this suggestion that there be a line-item veto, that there be enhanced rescissions, and so on and so on. That was called budget process reform.

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 try to deal with this deficit, we are going to have to do it in a bipartisan way and we are not going to be able to deal with it unless we have Republicans and Democrats and the President on board.

And, consequently, I feel that if I got a commitment out of the administration, let us say to hold appropriations harmless for economic and technical miscalculations, then I have a commitment to do something, also. This cannot be a one-way street.

May I say to my friends, there is no need to worry about Robert Byrd giving away the powers, the authority, the constitutional prerogatives—I could not give that away if I would—of this body. And all this talk about, well, they were taken over to Andrews Field over there and the President took them over there, and they were put under armed guard, and they were kept there and they were not allowed to come home until the President gave his approval, and then he let them come home—Mr. President, that is ludicrous.

I have heard a lot of ludicrous statements here. Of all the ridiculosity that I have ever been exposed to, I have heard it throughout these summit hearings. And all these subtle knifings at those who went over to the summit, I get a little sick and tired of it.

We have a song down in West Virginia, "I Am Looking for the Bully of the Town." Let me say nobody bullies this Senator, not here in this Chamber, not in the conference, nor on the street at midnight. I have had experts try to twist this arm—Lyndon B. Johnson—and I said no. I can say no to any man living, and I get tired of these little subtle cynicisms and darts that are cast at the summit hearings.

If there is a Senator here who wants to say that to me directly, let him speak. Nobody is going to bully this Senator: the President, a Senator, or anyone else. If I am wrong, I will be the first to say I am wrong. But we did our best over there, and it is said that we had those meetings over there and we have not had any conferences since.

We have had many conferences that did not occur over at Andrews. They occurred before we went to Andrews; they occurred since we went to Andrews. I have been here at night, late at night; Senator SASSER has been here; Senator BENTSEN; Senator MITCHELL; I can name them one by one. We were here when you folks were sleeping.

It is easy to pick. Anybody can ask questions. That is the reason we Senators always have the advantage over the witnesses who appear before our committees. It is easy to ask questions. It is difficult to answer them, and it is easy to pick. But I think he that picks ought to be a little more careful how he addresses his criticism.

This Senator is not knowingly ever going to permit any shift of power from this branch, and if there is any Senator who thinks I will, let him stand and say so to me now, call my name. All of these veiled needles and daggers, I get a little tired of them. Anybody can pick and anybody can find fault.

I just heard so much of it, and these poor devils who went over there and stayed over there at night—I did not stay all night; I have a wife that has to stay at the house by herself with my little dog Billy. But I get a little tired of those who went home at night and slept continuing to find fault with something that those of us who did our best to do our duty and uphold this body and its prerogatives and its powers and its traditions—I get a little tired of these veiled criticisms.

Mr. ADAMS. May I ask a question now?

Mr. BYRD. No. Let me just finish, and then I will be happy to.

It has been said now. Does the Senator have any other questions? May I say to the Senator I was not directing my remarks to him.

Mr. PRYOR. I appreciate that. I was beginning to wonder. I might say, Mr. President, the great President pro tempore was getting awfully close. But I understand exactly what the distinguished Senator, my good friend, was saying.

Mr. President, I am going to make a 30-second observation, if I might, and I am going to sit down. And there will probably be questions.

That observation is this: Gramm-Rudman-Hollings has been referred to many times tonight on this floor in this debate, the difference in Gramm-Rudman-Hollings and maybe some changes we are making in the budget. Gramm-Rudman-Hollings, whether we agree or disagree with the outcome, in my opinion, is one of the great debates we had in this Senate Chamber in the 12 years I have been here. It was over a weekend. It was just us, and we really looked at the priorities of how to do what we needed to do. I voted for it.

I must say, and I say this in respect, Mr. President, to every person, I say this in respect to the Senator from West Virginia, the Senator from Tennessee, the Senator from New Mexico, and everyone who has been involved in this process, and I have been involved as of late—I am on the Finance Committee and I voted out the package—but the Senator is right; we do not have the time to find out what we are doing.

I trust the Senator from West Virginia. If I vote for this amendment, to be honest with you, it will be for one and only one reason, and that is because the Senator helped to craft it, and I do not think he is going to sell us out, and I do not think he is going to give away the power or the authorities.

I wish we had more time, I say to my friend, and with that, I will yield the floor and I thank the Senator for granting me the privilege.

(Mr. DASCHLE assumed the chair.)

Mr. BYRD. Mr. President, I wish I had more time, too. I can appreciate the concerns the Senators have. I can appreciate the frustration that I have presented this package late. I can understand all that.

I do not understand everything that is in the package. But a good bit of it deals in areas that are under the jurisdiction of the Finance Committee or other committees of the Budget Committee.

I am sure that each of us has an understanding of the areas which were ours to debate but not the other areas.

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 Senator, he is my 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 Chamber was to go through and read 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 pass this. We have been placed up against the wall as happened in 1982. And that is going to occur.

I am sorry if I 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 Egyptian forgiveness potential, 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 anticipate will flow 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 Senate. 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 simply 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 sharper than it should have been, I 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 BYRD, 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 order in the Senate, 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 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 ceilings, not floors. This means that 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 raided by foreign operations. Because the Senate, in its unwisdom, 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.

So 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 chairman did everything he could do to protect discretionary spending so that the various subcommittees can have higher allocations and not have those allocations wiped out because a Senator offers an amendment 1 day 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 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, you will get them and I will prove to you that they are in there; I am going to see that you get them. And I did. He did not have to come out here on the floor and move to waive the Budget Act. He did not have to come out here and attempt to raise the allocation through a 60-vote waiver. I got it through this process that we worked 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 may 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 everbody else does is wrong. I do not apologize for my work over at the summit or here in the Capitol. 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 Constitution 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. Nobody's plan 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 conformance 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 operations will likely not occur in 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 their annual spending programs without the uneasiness 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 revenues 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 reelection of President Reagan, or Reagan-Bush, or whoever it may be. That was not my interest in going to the summit, leaving my wife over at the house by herself until 12, 1, 2 or 3 o'clock in the morning. That is not my interest: in reelecting Mr. Bush.

Mr. Bush had the courage at least to say that he was wrong in the campaign when he had said no taxes. He saw the real world when he took the oath and he changed his mind. That takes some courage.

But I do not like sequesters and I think we have to raise our sights just a little bit above partisan politics here.

Of course I want my party to win in the congressional elections. Of course I want a Democratic President in the White House. But there is something more important than that to this Senator, that is what happens to our country. It is being torn apart and it is time we quit thinking about ourselves and think about our country and our children. Try to avoid these sequesters. Just get on with the job.

Of course the national debt is going to be higher if we accept this, but it will be $500 billion less, we hope. Of course it is going to be higher. But what would it be if we did not have this package?

This is a vital improvement to current law under which discretionary appropriations for such activities such as law enforcement, education, water projects, research and development, highways, transit, VA medical care and so forth, are required to suffer across-the-board cuts if the Gramm-Rudman-Hollings deficit target is missed because of the faulty economic and technical estimates.

As I pointed out in my remarks to the Senate last evening, domestic discretionary spending has not contributed to the increased deficit. In fact these programs have been cut, as I pointed out, by a cumulative total of $326 billion, under baseline, in the past 10 years. This change eliminates—the change we are talking about now—eliminates mindless cuts to domestic programs that help to educate our children and protect our citizens, or to defense programs at a time when we may be at war in the Middle East, so long as we live up to the requirements of this agreement.

The amendment will place the burden of meeting the deficit reductions 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 shortfall. 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 become my credo yesterday.

In addition, the agreement will allow a mechanism for both 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, hurricane 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. CHAFEE. Well, Mr. President.

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.]

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 an 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 is spending, 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 appropriations. This will enable Congress to carefully scrutinize the administration's request for Desert Shield appropriations and will prevent DOD from getting a blank check by assuring necessary funds will be made available.

This agreement also strongly encourages the administration to secure commitments 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 so, I would not sign on.

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, for international 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 the Senator's questions? We have to change our mindset a little bit, I will say to the Senator. The economic assumptions themselves become irrelevant for the 3 years.

What the Senate 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 would 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 really not need a 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 either by increased revenues or by cutting spending in other entitlement programs or for a new domestic program which would be paid for either by raising funds through the budget resolution by directing the Finance Committee to do that or by cutting another program elsewhere.

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 the 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 figure for the second year and the corresponding figure for the third year.

Mr. JOHNSTON. You do not come in and reestimate—if we adopt this tax package or a tax package which is deemed today to satisfy those requirements of the 3 years, then you 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 economics. For example, if there is a faulty estimate of the amount of revenue that would 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 by 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, 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 as best we can we have protected the legislative process, and we have made it possible for the Appropriations Committees to act with some certainty and to 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 the 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 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 made 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.

The Senator from West Virginia is my great 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 implied 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 and every year 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 way we can assure that he 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. Wait. Let me finish. We do have discipline here. We are providing that within the appropriations process if the domestic discretionary exceeds its allocation, if defense exceeds its allocations, if foreign operations exceeds 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 sequester 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 built into 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 a 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 concept of our domestic finance 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 sequester 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 as 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 here: one 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 under 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. may I 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 trying to address; that is, if revenues 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—and defense?

Mr. DOMENICI. Mr. President, will the distinguished chairman yield, and I will try to respond?

One of the big changes that was effected 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-

Hollings and Gramm-Rudman-Hollings targets, that is what the Senator from Alaska is worried about.

Mr. STEVENS. No. This Senator is worried about the failures of revenues in the future, and 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 they ought to be is because they create a deficit. You do not meet the target 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 annually based upon 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 target is fixed. Because economics and technicals are out of our control and are readjusted 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 technical adjustments, and in the first 3 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, additional technical revisions on page 11 essentially provide 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 specifics 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 think 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. If there were any other forgiveness of debt for any other country, Israel, Turkey, any country, that would then count against the deficit and would require a reduction in expenditures in the foreign account or in the domestic account?

Mr. BYRD. Domestic discretionary would be held harmless. 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 forgave 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 has done more to try to protect domestic discretionary spending than my friend from West Virginia. I commend him on it.

One of the things that troubles me about this is that if next year or the year after, despite the herculean efforts of the chairman—I think successful efforts—of the Appropriations Committee to have a higher level of domestic discretionary spending, if in the next Congress we decide, those of us that are here to transfer money, for instance, from defense, at the level indicated here, to domestic discretionary or vice versa, that we could not do so.

Mr. BYRD. I would oppose that.

Mr. LEVIN. Pardon?

Mr. BYRD. I would oppose that.

Mr. LEVIN. My question is, Am I correct in saying that if next year or the year after, that instead of wanting a budget authority of $291 billion for defense and $191 billion for domestic discretionary, we wanted to 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 done 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 let me commend 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 the 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 this, 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 it in years 4 and 5, 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 1994 or 1995, let us say, of Turkey or Israel. If it is fungible, does the Senator know what category is going to pay part of the price for that? Ordinarily, if it is fungible, a portion will come out of domestic discretionary.

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 itself 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 summiteers for making that fungible. The administration wanted it solid, across the board, for 5 years. But we have 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 are doing, we are striking a blow for liberty for the United States of America and its infastructure, 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 can reverse 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: Well, 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 this country here where everybody is going to have 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 have an 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 account that is capped, it leads to 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 during 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 fo $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, there is no consequence in terms of mandatory restrictions; is that correct?

Mr. BYRD. It depends on what causes the severe decline in the revenue. If it is caused by a number of things 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. I guess my concern is, to put 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 $50,000 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 our traditional 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 we 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 I am going to sit down. That is about 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 puts a tremendous amount of obligation 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 realized, then we have a suspicion 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. SASSER. As I indicated earlier, I think, 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. All we are seeking to do and all we pledge to do under this agreement is simply to reduce the deficit by a set amount over 3 years.

If the economy declines precipitiously 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 maximum deficit targets, are they 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 deficit numbers 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. BYRD. 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 not going to Hades in a handbasket 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 reduction will occur over 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 our 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.

The PRESIDING OFFICER. The Senator from Tennessee.

MOTION TO WAIVE THE BUDGET ACT

Mr. SASSER. Mr. President, pursuant to section 904(b) of the Congressional Budget Act of 1974 I move to waive section 305(b) of the Budget Act for consideration of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

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. If the motion to waive prevails, the amendment will remain in order and subject to amendment.

Mr. SIMON. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The yeas and nays resulted—yeas 75, nays 25, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—75

Akaka	Domenici	Mack
Armstrong	Durenberger	McCain
Baucus	Ford	McClure
Bentsen	Fowler	McConnell
Biden	Garn	Mikulski
Bond	Glenn	Mitchell
Boren	Gore	Murkowski
Boschwitz	Gorton	Nickles
Breaux	Gramm	Nunn
Bryan	Grassley	Packwood
Bumpers	Harkin	Pell
Burdick	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Heinz	Reid
Chafee	Helms	Robb
Coats	Inouye	Rockefeller
Cochran	Jeffords	Rudman
Cohen	Johnston	Sasser
Cranston	Kasten	Simpson
D'Amato	Kennedy	Stevens
Danforth	Kerrey	Symms
Daschle	Leahy	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wilson

NAYS—25

Adams	Humphrey	Roth
Bingaman	Kassebaum	Sanford
Bradley	Kerry	Sarbanes
Conrad	Kohl	Shelby
DeConcini	Lautenberg	Simon
Exon	Levin	Specter
Graham	Metzenbaum	Wirth
Hatch	Moynihan	
Hollings	Riegle	

The PRESIDING OFFICER. On this vote there are 75 yeas and 25 nays. Three-fifths of the Senators 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—often without result—to match our expenditures 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 unforeseen 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 represents 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 countries, must look 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 leadershp 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—it will 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 receipts. That is exactly what President Reagan did when he told the American people that they could have 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 $6 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 enforce this important deficit reduction agreement. The bottom line is our primary responsibility, and because the leadership amendment ignores that, I could not support it.

Mr. SASSER. 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.

AMENDMENT NO. 3047

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.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment (No. 3047) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, we have yielded back all time, so I urge adoption of the leadership amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3046) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPERFUND

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 cosponsor 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 was 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 it 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 targetted incentive for investment in small, new ventures—the source of important job and income growth in 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 any specific 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, and to pay for 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 of artificially suggest 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 untimately 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 current reconciliation bill which I must oppose.

Mr. PELL. Mr. President, I am opposed to the budget plan before the Senate and will vote against it.

There are three main problems with this deficit reduction proposal:

It relies too much on increased taxes and places too much of the tax burden on the elderly and on the average taxpayer and family.

It fails to do enough to control spending.

It poses a very real danger to our economy at a time when we are sliding toward a recession.

During consideration of this bill in the Senate I voted to eliminate the immediate increase in gasoline excise taxes. I voted to reduce or eliminate the increased costs that would be imposed on the elderly in the Medicare program. And I voted to shift the burden of taxes from middle-income Americans to the wealthy. All of those proposed changes were defeated.

We should remember that the objectives of this budget plan—to reduce the deficit in 1991 by $40 billion and over 5 years by a total of $500 billion—were established in negotiations with the White House months ago. Since that time the evidence has grown steadily that our national economy is slowing and is in danger of sliding into an actual recession.

It is just plain bad economics to impose a heavy tax increase at a time when the economy is slowing down. Indeed, most economists agree that at a time like this it would be best to reduce taxes. With the size of our Federal deficit, we probably can not reduce taxes, but we should certainly think twice about imposing heavy new tax burdens.

For all of these reasons 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. So we are 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.

I have to 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 $3.2 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 certificate of 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 national 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—by 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 have—we can print money to 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 leads 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 interest rates that are very high by historical standards. Interest rates declined in the early 1980's as the Federal Reserve Board wrung inflation out of the economy. However, real interest rates, that is, interest rates adjusted for inflation, did not decline. What that means is that borrowing became more expensive. What that means, to use just one concrete example, is that homebuyers have had to buy smaller homes than they otherwise would, because money that could have been spent on more house was being spent on interest instead.

The debt has also hurt our economy by using up so much of our savings pool. Money that sould have gone into productive investments went instead into Government bonds. The result of that is lower growth and fewer jobs.

Many Americans—in all likelihood, most Americans—think they are better off now than they were in the 1970's. It is true that in some ways we are better off. Inflation, for example, is clearly lower. Our economy, however, grew faster, on average in the much-maligned 1970's than it did in the last 10 years. Productivity growth also declined in the last 10 years. What these abstractions mean is that the average American is worse off. Improvement in the standard of living for the average American slowed, and for many Americans, stopped altogether. For more and more Americans, the only way to make ends meet was to have two wage-earner families. And for a growing number of young families, the American dream of home ownership seemed to be drifting out of reach.

All of these problems are related to our failure to deal with the Federal budget deficits, but they are not the only consequences. We also need to consider the things debt has prevented our Nation from buying, like: cleaner air and water; hazardous waste cleanup; up-to-date, repaired roads and bridges; health care assistance for Americans that need it; child care programs for families with both parents working; and better education assistance.

In short, deficits have hurt and are hurting every American in many ways. Not addressing this issue simply increases the pain now, and will make the pain even greater when we do eventually act—and if we do not act voluntarily, we will eventually be forced to act. We therefore must find a way to get our deficits under control.

Some people argue, Mr. President, that the solution to the deficit problem is simple—cut spending. There are a number of things to say about that solution. The first is that Congress has cut spending.

I could give many, many examples of program cuts, but let me mention just two. I serve on the banking, housing, and Urban Affairs Committee. 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 cut by over 40 percent, and 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—cuts of 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 State;

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 Financial Regulators, 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 loans 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 per cent of the entire amount the Federal Government receives from the individual income tax.

Think of that! Half of every Americans' income taxes goes to paying interest, and we don't have any choice about interest. Our only choice is to pay it. And the only real way to reduce it is 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 our most 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 roitten 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 $3½ 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

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 that so 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 media has a field day, blasting our 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, there are rich elderly too and they 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 our current spending and that, I remind 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, $49 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—$9.80 over 5 years. 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 annual income would have increased by nearly $800 by 1995. Your Medicare premiums part b, voluntary Medicare premiums, would have gone up by only $9.80.

In addition, Medicare part b deductibles would be increased from $75, where it has been since 1982, 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 right back into the Treasury of the U.S. Government.

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 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 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, 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 effect 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.

FISCAL YEAR 1991 BUDGET RECONCILIATION ACT AND HEALTH MEASURES

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, inspite of 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 eliminate waste, inefficiency, 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 process is completely broke 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 action organizations. We need a balance 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 as any parent or grandparent about 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 eliminate or restructure.

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 phenominal 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 ultimate effect of capping domestic spending growth at 4 percent will have on Medicare premiums and deductibles for our Nation's elderly. If I understand this concept correctly, when health care costs rise in the double digits next year, as they have been for nearly 10 years now, we will have to either increase premiums paid by the elderly or reduce services—both of which will have negative consequences on our Nation's elderly, who are trying to make ends meet on a fixed income.

Lastly, I am concerned that this bill does not truly take Social Security off-budget and out of the budget deficit calculations. For some time, Mr. President, 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 must do so in order to be honest 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. It is for that reason that I am joining with Senators HEINZ and HOLLINGS an amendment to this bill to take Social Security off-budget and out of the budget deficit calculations.

Even though I have some very serious problems with this budget reconciliation bill, for the reasons I have just outlined, there are a number of provisions—in the health area, particularly—that I strongly support. In fact, I am not only a strong supporter of these proposals, I helped author some of them. I would just like to briefly touch on a couple of them.

First, I am pleased to see that this bill proposes elimination of the urban/rural differential in Medicare payments to hospitals. For several years now, I have been arguing that the policy of paying rural hospitals less than urban hospitals for the same service just does not make sense. The reason being that about the only thing that is cheaper for a rural hospital, than an urban hospital, is land. In fact, many things are much more costly for rurals than urbans. For example, the recruitment and retention costs for nurses and doctors can often exceed those of an urban facility. The equipment needs of urban and rural hospitals are the same. But, often it costs more in a rural area to get equipment repaired because the parts aren't right at hand. And, in many cases, a rural hospital may have to pay for travel, if not lodging, for the repair person if he or she has to travel far in coming to the facility. We have been narrowing the differential for a couple of years now. I am pleased to see that this package bites the bullet and finally eliminates the differential—something which I believe should have been done long ago.

Second, I am pleased this package contains an expansion of the hospice program under Medicare. This program is a critical care option for those in our population who become critically ill. I have long been an advocate and supporter of the hospice program. In fact, I have proposed that the expansion contained in the now repealed Medicare Catastrophic Coverage Act be restored. The expansion contained in this package is a much needed benefit for a very critically ill segment of our population, who deserve our assistance in providing them with affordable care and a comfortable, caring environment in which to spend their remaining days.

Third, I applaud the Finance Committee for including the text of two bills I sponsored—one with Senator HEINZ and the other with Senator BENTSEN—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 Congress overreacted to an abuse of the previous staff-assisted benefit by eliminating the benefit all together—rather than dealing with the specific abuse of the benefit. This led a number of very sick individuals to be placed in a life threatening situation where they could not get care. I personally intervened on behalf of a number of Arizonans in this situation, in terms of helping them get care. And, as a result, joined with senator HEINZ in offering a bill to fix the problem—restoring the beneift for those who truly need it. And, it is this proposal that has been encorporated in this package.

Fourth, I am pleased to see that the Finance Committee included in this budget reconciliation a proposal that I offered with senator DANFORTH to require that hospitals inform their patients of living wills and medical directives upon their admission for care. In my view, this is a very important proposal.

It is shocking to most Americans that were you to go into a hospital for an operation, and something were to go wrong and you ended up in a persistent vegitative state, that care would most likely not be discontinued—even at the request of a loved one—unless you had formally made your wishes known before hand. And, it must have been done in the form of a formal living will and an advanced medical directive. This has been the subject of a number of lawsuits. As uncomfortable a subject as this is, I believe it is important that Americans are educated about this issue, and I believe that one of the appropriate places and times is on admission to a hospital.

Again, Mr. President, I am not able to in good conscience vote for this bill because of my very strong concerns about the tax and spend thrust of this bill and the fact that it does not include any serious budget reforms. having said that, I wanted it to be known that there are some provisions in this package that I am in very strong support of.

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 realties 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 3.8 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 $200 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 would be $64 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 $195 billion, and the fiscal year 1991 deficit would be $232 billion. Now in October, CBO has indicated to my staff that the $195 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 the Federal budget deficit is concerned and we're certainly not going to come close to balancing the budget in the next 5 years.

Mr. President, the staggering deficit numbers I have just described tell only one-half of the story. If we really want to give the American public an honest look at the size of this 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 HEINZ, have tried to bring about a sense of "Truth in Budgeting," by getting Congress to exclude the Social Security 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 operating surpluses. But interest accrued by the Social Security trust funds are not deemed a part of 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 part A-Hospital, the Highway Trust Fund, the Airport Trust Fund—

from the Federal Government's operating budget, the real deficit, the actual shortfall between revenues for general funding and the actual costs of operating the Federal Government would exceed $300 billion, not the $205 billion figues used in this budget. According to CBO's July analysis, the deficit excluding all trust funds would be $367 billion in fiscal year 1991, $379 billion in 1992, $345 billion in 1993, $309 billion in 1994 and $315 billion in 1995. Clearly, the package in front of us will barely dent this extraordinary shorfall in revenue.

Mr. President, is this the best deficit-reduction package that Congress would develop in the face of this fiscal crisis? I think the answer to that question is No. We should have cut spending more. In fact, what this budget deficit package labels reduced spending is nothing more than the peace dividend minus Desert Shield, along with the usual—in this case $37.6 million—in medical provider cuts, and new taxes styled in the fashion of new user fees. In my view it is not a programmatic spending cut when we collect fees for agricultural quarantine and inspection services; it is not a spending cut when we increase premiums paid for flood insurance; it is not a spending cut when we establish a 500-percent increase in the level of civil penalties that can be imposed on businesses that violate OSHA; it is not a spending cut when we raise FHA fees; it is not a spending cut when we establish new fees for oversight of the rail safety program; it is not a spending cut when we collect new fees to pay for the U.S. Travel and Tourism Administration. Mr. President, the list goes on and on. The point is that we are really not cutting spending to the degree that many believe is necessary. We are just augmenting the costs of programs.

Mr. President, I think this package should have relied less heavily on regressive excise taxes. We should have asked wealthy beneficiaries of Federal entitlement programs to pay a larger share of the cost of those programs. And we should have relied more heavily on changes in the income tax base and left excise taxes to the hard pressed State and local governments who are everyday being required to do more with fewer and fewer resources. But we are not going to rewrite this package on the floor of the Senate tonight. The time for making tough choices is here and now, and although I do not like this package, I think it is the best we can do at this late stage in the budget process and I am going to vote for it.

But, Mr. President, this is the last time that this Senator is going to go along with a budget package that is essentially the product of budget summit negotiations. After Black Monday in 1987, I went along with a 2-year budget summit package that revised the Gramm-Rudman targets and supposedly put us on track for a balanced budget by 1993. I went along with last year's budget summit package. And I will go along with this year's package because the choice between a $100 billion sequester, a complete shutdown of the Government, and chaos in the financial markets, is simply not a choice. We have a gun to our heads and we must act responsibly.

When we marked up the reconciliation bill in the Finance Committee early last Saturday morning, I said "I hope next year it will be different." My colleague from Pennsylvania, JOHN HEINZ, leaned over to me and said: "It will be—— It will be worse." Mr. President, he may be right. He may have been referring only to the fiscal and economic difficulties that face our country, or he may have meant the process which has worried us all.

Mr. President, for the past 6 years, I have held the view that the budget deficit is the No. 1 problem facing this country. Some economists and some elected officials have suggested otherwise. Some have suggested that deficits do not matter; others that we can grow our way out of the deficit, and that hard choices on reducing spending or raising revenues can be put off forever. And over the past 6 years, the American public has heard so many things about the deficit that they no longer know who to believe. Is it any wonder that the President and the majority leader were unable to convince the public to support the summit package when they went on national television 2 weeks ago? The public has just become confused on what the deficit means and are understandably reluctant to pay more money into Washington without any assurance that we will husband their resources with care.

Mr. President, this is probably the worst time for us to have to raise taxes. The economy is teetering on the verge of recession. Oil prices are fueling an inflationary spiral that could bring us back to the days in the late 1970's when this economy stagnated under the weight of stagflation. Financial institutions are holding back on lending, making it far more difficult for businesses to expand operations. But if we do not pass this package, if we do not make a credible effort to reduce the deficit, then this economy could face a shock that will take the remainder of the decade to remedy.

Foreigners are more and more reluctant to purchase our Government's debt. We cannot raise interest rates at this time without throwing the economy into a severe tailspin. We cannot afford the luxury of increasing Federal spending to counteract the slowdown in the economy. The only choice we have is to convince the financial markets that we are serious about starting down the road to deficit reduction by adopting this package. That will help ease the pressure on the Federal Reserve and make it more likely that the FED can reduce interest rates.

Mr. President, the budget deficit is not simply a matter of restoring confidence to the markets. It is not simply 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, I think 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 prolonged illness. That 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 from top to 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.

THE BUDGET RECONCILIATION BILL

Mr. GORTON. Mr. President, when the budget summit produced a bipartisan agreement after months of torturous 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 constitutents.

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 summitteers, 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
Boschwitz	Byrd	Daschle

Dixon	Jeffords	Pryor
Dodd	Kassebaum	Reid
Dole	Kennedy	Robb
Domenici	Kohl	Rockefeller
Durenberger	Leahy	Rudman
Ford	Lugar	Sarbanes
Fowler	McClure	Sasser
Garn	Mikulski	Simpson
Glenn	Mitchell	Specter
Gore	Moynihan	Stevens
Hatch	Murkowski	Thurmond
Heinz	Nunn	Warner
Inouye	Packwood	Wirth

NAYS—46

Adams	Grassley	McCain
Akaka	Harkin	McConnell
Armstrong	Hatfield	Metzenbaum
Baucus	Heflin	Nickles
Biden	Helms	Pell
Bradley	Hollings	Pressler
Burns	Humphrey	Riegle
Coats	Johnston	Roth
Cohen	Kasten	Sanford
Conrad	Kerrey	Shelby
D'Amato	Kerry	Simon
DeConcini	Lautenberg	Symms
Exon	Levin	Wallop
Gorton	Lieberman	Wilson
Graham	Lott	
Gramm	Mack	

So the bill (H.R. 5835), as amended, was passed, as follows:

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

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

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

SEC. 2. TABLE OF CONTENTS.

Subtitle A—Commodity Programs

SEC. 1101. TRIPLE BASE FOR DEFICIENCY PAYMENTS.

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

(1) the payment rate; by

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

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

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

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

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

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

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

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

(d) REDUCED AND PERMITTED ACREAGE.—

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

(A) the crop acreage base; by

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

(2) PERMITTED ACREAGE.—The remaining acreage is hereafter in this section referred to as "permitted acreage".

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

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

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

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

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

SEC. 1102. CALCULATION OF DEFICIENCY PAYMENTS.

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

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

(A) the lesser of—

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

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

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

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

(A) the lesser of—

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

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

(B) the loan level determined for the crop.

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

SEC. 1103. ACREAGE REDUCTION PROGRAMS FOR 1991 THROUGH 1995 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE.

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

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

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

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

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

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

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

(2) each of the 1991 through 1995 crops of corn, grain sorghum, and barley under which the acreage planted to the respective feed grain for harvest on a farm would be limited to the respective feed grain crop acreage base for the farm for the crop reduced by not less than 7½ percent;

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

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

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

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

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

(A) in the case of the 1992 crop of rice, not less than 18½ percent;

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

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

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

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

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

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

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

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

SEC. 1104. OILSEED PRICE SUPPORT.

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

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

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

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

(b) ADJUSTMENT.—

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

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

SEC. 1105. DAIRY ASSESSMENTS.

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

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

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

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

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

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

SEC. 1107. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

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

(b) TERMS OF PROGRAM.—

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

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

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

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

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

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

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

(c) INTEREST CHARGES.—

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

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

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

(d) STORAGE PAYMENTS.—

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

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

(3) DURATION.—The Secretary may cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

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

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

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

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

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

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

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

(g) ANNOUNCEMENT OF PROGRAM.—

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

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

(h) RECONCENTRATION OF GRAIN.—The Secretary may, with the concurrence of the owner of grain stored under such a program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the hold-

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 commitment.

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

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

SEC. 1108. PAYMENT OF INTEREST ON CERTIFICATES.

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

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

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

Subtitle B—Other Agricultural Programs

SEC. 1201. AUTHORIZATION LEVELS FOR REA LOANS.

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

(1) For fiscal year 1991, $896,000,000.
(2) For fiscal year 1992, $932,000,000.
(3) For fiscal year 1993, $969,000,000.
(4) For fiscal year 1994, $1,008,000,000.
(5) For fiscal year 1995, $1,048,000,000.

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

(1) $224,000,000 for fiscal year 1991;
(2) $234,000,000 for fiscal year 1992;
(3) $244,000,000 for fiscal year 1993;
(4) $256,000,000 for fiscal year 1994; and
(5) $267,000,000 for fiscal year 1995.

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

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

SEC. 1202. AUTHORIZATION LEVELS FOR FmHA LOANS.

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

(1) For fiscal year 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A of such Act.
(2) For fiscal year 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A of such Act.
(3) For fiscal year 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A of such Act.
(4) For fiscal year 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A of such Act.
(5) For fiscal year 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A of such Act.

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

(1) For fiscal year 1991—
(A) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and
(B) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

(2) For fiscal year 1992—
(A) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and
(B) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

(3) For fiscal year 1993—
(A) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and
(B) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

(4) For fiscal year 1994—
(A) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and
(B) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

(5) For fiscal year 1995—
(A) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and
(B) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

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

(1) reduce the amounts otherwise made available for insured loans made from the Agricultural Credit Insurance Fund by—
(A) $319,000,000 for fiscal year 1991;
(B) $460,000,000 for fiscal year 1992;
(C) $602,000,000 for fiscal year 1993;
(D) $697,000,000 for fiscal year 1994; and
(E) $792,000,000 for fiscal year 1995; and

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

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

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

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

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

(c) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

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

(2) AMOUNTS IN ACCOUNT.—

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

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

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

(1) administering this section;

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

(3) maintaining a reasonable balance in the Account.

SEC. 1204. INTERNATIONAL SANCTIONS.

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

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

Subtitle A—Federal Deposit Insurance Premiums

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

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

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—

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

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

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

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

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

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

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—

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

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

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

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

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

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

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

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

"(III) From January 1, 1994, through December 31, 1997, 0.18 percent.".

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

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

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

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

"(A) ASSESSMENT RATES PRESCRIBED.—

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

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

"(iii) DEADLINE FOR ANNOUNCING RATE CHANGES.—The Corporation shall announce any change in assessment rates.—

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

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

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

(1) by striking "annual" each time it appears;

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

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

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

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

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

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

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

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

(2) in clause (iii)—

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

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

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

(3) in clause (iv)—

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

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

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

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

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

"SEC. 14. BORROWING AUTHORITY.

"(a) BORROWING FROM TREASURY.—";

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

(A) by striking "this section" each time it appears and inserting "this subsection"; and

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

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

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

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

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

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

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

the insured depository institution and is diligently pursuing its claims; and

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

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

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

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

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

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

Subtitle B—FHA Mortgage Insurance

SEC. 2101. FHA CEILING.

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

SEC. 2102. REVERSE MORTGAGE INSURANCE.

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

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

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

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

(3) by adding at the end the following:

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

"(A) based upon a line of credit;

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

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

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

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

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

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

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

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

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

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

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

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

"(3) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2106. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

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

"(h) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into ac-

count the actuarial status of the entire Fund.".

Subtitle C—Mortgage Assignments

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

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

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the same under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (herein referred to as 'participating certificates', unless the mortgagee can demonstrate that the auction and sale is less economically advantageous to it than the receipt of debentures. The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price would also include the right to a subsidy payment described in subsection (c).

"(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing such a credit instrument.

"(II) A mortgagee who elects to assign his mortgage must provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument to include, but not be limited to: principal mortgage balance; original stated interest rate; service fees; real estate and tenant characteristics; the level and duration of applicable Federal subsidies; and any other information determined by the Secretary to be appropriate. The Secretary shall also provide the status of this property with respect to provisions in the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay mortgage, whether the owner has filed an Intent to Prepay or a Plan of Action under the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act; and the details with respect to incentives provided in the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act in lieu of exercising prepayment rights.

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

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

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

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

"(I) the maturity date of the loan;

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

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

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

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

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

"(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

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

Subtitle D—Crime and Flood Insurance Programs

SEC. 2301. CRIME INSURANCE PROGRAM.

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

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

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

SEC. 2302. FLOOD INSURANCE PROGRAM.

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

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

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

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

(e) INCLUSION OF COSTS IN PREMIUMS.—

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

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

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

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

"(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commission, company's expense allowances, or State or local premium taxes,"; and

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

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

(A) in subsection (b)—

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

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

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

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

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

"(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain manage-

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 paragraphs), shall be paid to the Director. The Director shall deposit the sum in the National Flood Insurance Fund established under section 1310.".

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

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

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

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

TITLE III—COMMERCE, SCIENCE, AND TRANSPORTATION

Subtitle A—User Fees

SEC. 3001. COAST GUARD USER FEES.

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

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

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

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

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

SEC. 3002. RAILROAD SAFETY USER FEES.

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

"USER FEES

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

"(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

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

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

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

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

SEC. 3003. UNITED STATES TRAVEL AND TOURISM FACILITATION FEE.

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

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

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

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

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

"(b) Each commercial airline and passenger ship line shall remit the fee charged by the Secretary under subsection (a) of this section, in United States dollars, no later than 31 days after the close of the calendar quarter of the arrival of the passengers on which the fee is based.

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

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

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

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

SEC. 304. NOAA USER FEES.

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

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

(2) in subsection (b)(1)—

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

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

(3) in subsection (b)(2)—

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

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

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

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

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

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

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

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

Subtitle B—Airport Capacity

PART 1—SHORT TITLE; FINDINGS

SEC. 3101. SHORT TITLE.

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

SEC. 3102. FINDINGS.

The Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2—AUTHORIZATION OF APPROPRIATIONS

SEC. 3121. FAA FACILITIES AND EQUIPMENT.

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

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

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

SEC. 3124. FAA RESEARCH, ENGINEERING AND DEVELOPMENT.

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

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

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

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

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

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

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

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

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

SEC. 3125. FAA OPERATIONS.

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

PART 3—NATIONAL AVIATION NOISE POLICY

SEC. 3201. NATIONAL AVIATION NOISE POLICY.

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

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

SEC. 3202. NOISE AND ACCESS RESTRICTION REVIEWS.

(a) The National Aviation Noise Policy shall require the establishment of a program for adequate public notice and comment opportunities on local airport noise or access restrictions that first became effective after October 1, 1990, that were negotiated or executed agreements as of October 1, 1990, or where the FAA has already formed a working group to examine the noise impact of air traffic control procedure changes.

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

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

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

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

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

(5) any other limit on Stage 3 aircraft,

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

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

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

(2) a description of alternative regulations;

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

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

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

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

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

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

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

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

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

(e) Sponsors of facilities operating under noise or access restrictions on Stage 3 operations that first became effective after October 1, 1990, shall not be eligible for grants authorized by section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) 90 days after the date on which the Secretary promulgates the final rule called for under section 331 of this Act, unless the restrictions have been agreed to by the airport proprietor and airport operators or the Administrator has approved the restriction under this title, or the restriction has been rescinded.

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

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

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

SEC. 3203. FEDERAL LIABILITY FOR NOISE DAMAGES.

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

SEC. 3204. PRIVATE RIGHT OF ACTION.

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

SEC. 3205. LIMITATION ON AIRPORT IMPROVEMENT PROGRAM REVENUE.

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

SEC. 3206. NOISE COMPATIBILITY PROGRAM.

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

PART 4—PASSENGER FACILITY CHARGES

SEC. 3301. DEFINITIONS.

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

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

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

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

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

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

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

SEC. 3302. AUTHORIZATION FOR IMPOSITION.

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

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

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

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

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

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

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

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

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

"(E) In the event that disagreement is registered with reference to a project to build airport gates, the Secretary shall not approve such passenger facility charge unless he finds by substantial evidence that the project is justified by the need to increase capacity at the facility or facilities affected. Under no circumstances shall any gates constructed, improved, or repaired with passenger facility charges under this paragraph be subject to long-term leases for periods exceeding 10 years, or to majority in interest clauses.

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

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

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

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

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

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

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

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

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

"(10) The Secretary of Transportation shall require that any airport imposing a passenger facility charge maintain the funds derived as a result in a separate and identifiable account which, for the purpose of this Act, shall be subject to the same record, audit and examination requirements imposed upon airport improvement pro-

gram revenues by section 518 of the Airport and Airway Improvement Act of 1982.

"(11) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect any tax on or with respect to any commercial aircraft flight, or any activity or service on board such flight, if such flight neither takes off nor lands in such state or jurisdiction".

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

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

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

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

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

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

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

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

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

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

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

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

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

(5) "Secretary" means the Secretary of Transportation.

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

AIR CARRIER SPECIAL AUTHORIZATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HIGH DENSITY TRAFFIC AIRPORT RULES

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

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

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

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

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

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

PART 6—UNIVERSITY AIR TRANSPORTATION CENTERS

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

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

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

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

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

(A) The extent of which the needs of the State in which the applicant is located are representative of the needs of the Federal region for improved air transportation services and facilities.

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

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

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

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

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

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

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

(7) RESEARCH ADVISORY COMMITTEE.—

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

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

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

PART 7—MISCELLANEOUS

SEC. 3451. SEVERABILITY.

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

SEC. 3452. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

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

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

SEC. 3453. MILITARY AIRPORT PROGRAM.

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

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

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

(3) by adding at the end the following:

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

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

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

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

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

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

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

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

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

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

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

SEC. 3454. EXPANDED EAST COAST PLAN.

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

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

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

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

SEC. 3455. DECLARATION OF POLICY.

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

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

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

SEC. 3456. CERTIFICATE TRANSFERS.

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

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

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

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

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

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

(B) competition in the domestic airline industry, and

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

SEC. 3457. SENSITIVE SECURITY INFORMATION.

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

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

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

SEC. 3458. REPORTS.

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

SEC. 3459. ATLANTIC CITY AIRPORT.

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

SEC. 3460. NATURAL DISASTER REGULATION.

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

"SAFETY REGULATION

"SEC. 613. (a) NATIONAL DISASTER AREAS.—Prior to the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Federal Aviation Administration, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

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

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

TITLE IV—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—Tongass Timber Reform

SEC. 4001. SHORT TITLE AND DEFINITION.

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

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

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

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

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

Subtitle B

SEC. 4110. SHORT TITLE.—This subtitle may be cited as the "Uranium Enrichment Act of 1990".

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

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

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

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

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

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

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

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

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

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

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

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

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

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

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

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

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

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

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

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

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

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.

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

"b. The Corporation shall—

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

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

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

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

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

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

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

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

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

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

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

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

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

"CHAPTER 23. CORPORATE OFFICES

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

"CHAPTER 24. POWER AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

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

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

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

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

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

"(3) as otherwise authorized by law;

"d. may—

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

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

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

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

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

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

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

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

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS, AND REGULATIONS:

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

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

operation of law unless otherwise specifically provided in this title.

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

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

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR:

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

"b. The Administrator—

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

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

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

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

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

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

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

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

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

"(B) health, safety and the environment.

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

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

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

"a. (1) The specific responsibilities of the Corporate Board shall be to—

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

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

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

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

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

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

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

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

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

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

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

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States.

"a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: Provided, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503(c) and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities

and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

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

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

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

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

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

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

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

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

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

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

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

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

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

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

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

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

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

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

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

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

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

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

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION:

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

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

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

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of

the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

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

"SEC. 1507. BORROWING:

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

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

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

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

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

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

"SEC. 1508. PRICING:

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

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

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

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation beginning in fiscal year 1996 shall recover from its customers other than the Department in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505(a) at any time. The Corporation shall begin recovering such costs in prices and charges to the Department at such time as this title takes effect. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Corporate Fund and the Uranium Enrichment Decontamination and Decommissioning Base Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

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

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

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

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

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

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

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an inde-

pendent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

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

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

"SEC. 1511. CONTROL OF INFORMATION.

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

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

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

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

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

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

"SEC. 1512. PATENTS AND INVENTIONS.

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

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

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

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

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

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

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

"CHAPTER 26. LICENSING; TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.

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

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

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

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

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

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, beginning in fiscal year 1996, the Corporation is authorized and directed to make payments to State and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities, and income of the Corporation. All property of the Corporation its activities and income are expressly exempted from taxation in any manner or form by

any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

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

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

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

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

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

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

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

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

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

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

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

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

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

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

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS:

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

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

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

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

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

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

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

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

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

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

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT:

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

"(2) The Corporate Fund shall consist of:

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

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

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

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

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

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

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

"c. ESTABLISHMENT OF FEE AND BASE FUND.—(1) Beginning in fiscal year 1991 and lasting through fiscal year 1995, each licensee of a civilian nuclear power reactor shall pay a fee of .20 mills per kilowatt hour of net electricity generated by such reactor. Such fee shall be collected by the Corporation and is established for purposes of reimbursing the Corporation for the costs of decontaminating and decommissioning uranium enrichment facilities of the Corporation which costs are attributable to the provision of separative work and other enrichment products, materials and services to commercial customers prior to the enactment of this title.

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

"(3) The Base Fund shall consist of:

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

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

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

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

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

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

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

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

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

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS:

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

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

SEC. 4113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subtitle C

CHAPTER 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 4201. TITLE.

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

SEC. 4202. FINDINGS AND PURPOSE.

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

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

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

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

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

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

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

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

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

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

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

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

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

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

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

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

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

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

SEC. 4203. DEFINITIONS.

For purposes of this subtitle—

(1) the term "active site" means—

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

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

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

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

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

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

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

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

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

(5) the term "Department" means the Department of Energy;

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

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

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

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

(10) the term "Secretary" means the Secretary of Energy;

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

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

CHAPTER 2—URANIUM REVITALIZATION

SEC. 4210. VOLUNTARY OVERFEED PROGRAM.

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

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

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

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

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

SEC. 4211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be retricted to military purposes and Government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 4212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium; Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 4213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 4214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

CHAPTER 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 4220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B), and (C) of this section shall be increased annually

based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 4222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 4221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 4220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 4220.

SEC. 4222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this chapter not more than $300,000,000 increased annually as provided in section 4220 based upon an inflation index as determined by the Secretary.

TITLE V—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 5001. FEES OF THE ENVIRONMENTAL PROTECTION AGENCY.—(a) The Administrator of the Environmental Protection Agency shall assess and collect fees and charges for services and activities carried out pursuant to the statutes which are administered by the Agency in the amount of $22,000,000 for the fiscal year 1991, and $33,000,000 in each of the fiscal years 1992, 1993, 1994, and 1995. Such sums shall be in addition to the sums the Agency is collecting for services or activities upon the date of enactment of this Act. The amount of any fee or charge assessed pursuant to this section shall be established by rule after notice and opportunity for public comment. Publicly owned wastewater treatment works shall not be required to pay a fee associated with discharge permits required pursuant to section 402 of the Federal Water Pollution Control Act.

(b) Except as may otherwise be specifically provided by law with regard to fees and charges, and their deposit and retention, any fees and charges established and collected by the Administrator of Environmental Protection Agency pursuant to this section or other statutes administered by the Agency shall be deposited in a special fund in the United States Treasury which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fee or charge is made.

NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES

SEC. 5002. (a) AMENDMENT TO ATOMIC ENERGY ACT.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

"SEC. 292. USER FEES AND ANNUAL CHARGES.

"(a) ANNUAL ASSESSMENT.—

"(1) AMOUNT.—Except as provided in subparagraph (3), the Nuclear Regulatory Commission (hereinafter in this section referred to as the Commission) shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses in the fiscal year in which such assessment is made, less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(2) FIRST ASSESSMENT.—The first assessment shall be made not later than September 30, 1991, and shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1991.

"(3) LAST ASSESSMENT.—The last assessment of annual charges as described in subsection (c) shall be made not later than September 30, 1995, and shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1995.

"(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

"(c) ANNUAL CHARGES.—

"(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license from the Commission may be required to pay, in addition to the fees set forth in subsection (b), an annual charge.

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

"(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). To the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

"(d) DEFINITION.—As used in this section, 'Nuclear Waste Fund' means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).".

(b) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), as amended, is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS.—The table of contents of the Atomic Energy Act of 1954 is amended by adding after the term relating to section 291 the following new item:

"Sec. 292. User fees and annual charges.".

SEC. 5003. RECREATION USER FEES AT WATER RESOURCES DEVELOPMENT AREAS ADMINISTERED BY THE DEPARTMENT OF THE ARMY.

(a) The second sentence of section 210 of the Flood Control Act of 1968 (82 Stat. 746; 16 U.S.C. 4604-3) is amended to read:

"Notwithstanding section 460 of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4604-6a(b)), the Secretary of the Army is authorized to charge fees for the use of specialized recreation sites and facilities, including, but not limited to, improved campsites, swimming beaches, and boat launching ramps; however, the Secretary shall not charge fees for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, toilet facilities, or general visitor information. The fees shall be deposited into the special Treasury account for the Corps of Engineers that was established by section 460 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4604-6a(b)).

(b) Section 4 of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4604-4(a)), as further amended by deleting the next to the last sentence of subsection (b).

TITLE VI—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 6000. AMENDMENT OF THE SOCIAL SECURITY ACT, TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

TITLE VI—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

"(H) services or equipment related to the quality and liveability of the individual's shelter and which are not for the purposes of rent, mortgage, real property taxes, garbage collection and sewerage services, water, heating fuel, electricity, or gas; but permissible contributions include—

"(i) payment for telephone services;

"(ii) payment for repairs to shelter;

"(iii) payment for repairs or replacement of heating source in shelter; and

"(iv) purchase of any appliance, if such purchase will not result in the individual's household goods exceeding the amount which has been determined by the Secretary to be reasonable under section 1613(a)(2)(A).".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in months following the date of the enactment of this Act.

(b)(1) RULES GOVERNING CIRCUMSTANCES UNDER WHICH CONTRIBUTION OF A SHELTER IS TO BE COUNTED AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) in subparagraph (E), by striking "; and" and inserting ", except that receipt of any sum or property as a result of inheritance, gift, or support shall be treated as income only in the month in which the individual legally has access to the funds to use for the individual's own benefit;";

(B) in subparagraph (F), by striking the period and inserting "; and"; and

(C) by inserting at the end the following:

"(G) the value of an ownership interest in a shelter received, but the value of such interest shall be included in income only in the month of receipt and pursuant to the following rules:

"(i) If the individual resides in the shelter at the time of the conveyance, the limitations established by the Secretary for presuming a maximum value for in-kind support shall apply.

"(ii) If the individual does not reside in the shelter at the time of the conveyance, the full value of the interest shall be income in the month of receipt.".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6017. CERTAIN TRUSTS NOT TO BE COUNTED AS A RESOURCE AVAILABLE TO THE RECIPIENT; TRUST NOT INCOME IN MONTH IN WHICH IT IS ESTABLISHED.

(a) CIRCUMSTANCES UNDER WHICH TRUST CREATED FOR BENEFIT OF RECIPIENT SHALL NOT BE COUNTED AS A RESOURCE.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) any amount set aside in a trust or similar legal device, either by the individual or on behalf of the individual, for the purpose of providing assistance to the individual, so long as the individual does not have access to the assets of the trust. An individual does not have access to assets held in a trust if the trustee, and not the individual, has the discretion to determine when such assets ought to be distributed to or for such individual and the amount of any such distribution. The authority for discretion by the trustee to use the assets of the trust for the support and maintenance of the individual, or to supplement any benefits available to the individual under title XVI or other public benefits, shall not mean that the individual has access to these assets. The fact that the trustee is also the representative payee for the individual or relative of the individual shall not be construed as causing trust assets to be accessible to the individual if all the other requirements of this subsection are satisfied.".

(b) CREATION OF TRUST NOT TO BE COUNTED AS INCOME IN MONTH OF CREATION; LATER PLACEMENT OF FUNDS OR PROPERTY IN THE TRUST ALSO NOT COUNTED AS INCOME.—(1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of the paragraph (16),

(B) by striking the period at the end of the paragraph (17) added by section 6016(a)(1)(C) of this Act and inserting "; and"; and

(C) by inserting after the paragraph (17) added by section 6016(a)(1)(C) of this Act the following:

"(18) any funds or other property placed in a trust for the benefit of the individual over which the individual has no discretion as to use shall not be treated as income either at the time of creation of the trust or if placed in the trust after its creation.".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6018. NOTIFICATION OF CERTAIN INDIVIDUALS ELIGIBLE TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive retroactive benefits under Sullivan v. Zebley, 110 S. Ct. 2658 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining—

(1) the 6-month limitation on the exclusion from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(2) the potential effects under title XVI of the Social Security Act, attributable to the receipt of such payment, including—

(A) potential discontinuation of eligibility; and

(B) potential reductions in the amount of benefits;

(3) the possibility of establishing a supplemental security income (SSI) special needs trust account that—

(A) designates the individual for whom such payment is made as the beneficiary; and

(B) may not be considered as income or resources for the purposes of this title; and

(4) that legal assistance in establishing such a trust may be available through legal referral services offered by a State or local bar association, or through the Legal Services Corporation.

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 6020. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING.—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended—

(1) by striking "with respect to" and all that follows through "(A) provide" and insert "provide, at the option of the State and with respect to such category or categories as the State may select and identify in its State plan (A)";

(2) by striking "(with the prior approval of the Secretary in recent work history and earned income cases)"; and

(3) by striking "upon a determination" and all that follows through "paragraph".

(b) OPTIONAL RETROSPECTIVE BUDGETING.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(13) at the option of the State, provide that—".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to reports pertaining to, or aid payable for, months beginning in or after October 1990.

SEC. 6021. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS MEMBER OF FAMILY UNIT FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, AFDC BENEFIT.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 408 the following new section:

"EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.

"SEC. 409. Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part, and the income and resources of such child shall be excluded from the income and resources of a family under this part unless, in the case of a child with respect to whom adoption assistance payments are so made, such exclusion would reduce the benefits of the family under this part.".

(b) CONFORMING REPEAL.—Section 478 (42 U.S.C. 678) is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the repeal made by subsection (b) shall take effect on the first day of the first month beginning after the date that is 6 months after the date of the enactment of this Act.

SEC. 6022. ELIMINATION OF TERM LEGAL GUARDIAN.

(a) IN GENERAL.—Section 402(a)(39) (42 U.S.C. 602(a)(39)) is amended—

(1) by striking "or legal guardian"; and

(2) by striking "or legal guardians".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6023. REPORTING OF CHILD ABUSE AND NEGLECT.

(a) CONCERNING AFDC APPLICANTS AND RECIPIENTS.—

(1) IN GENERAL.—Section 402(a)(16) (42 U.S.C. 602(a)(16)) is amended to read as follows:

"(16) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(9) (42 U.S.C. 602(a)(9)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(b) CONCERNING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE.—

(1) IN GENERAL.—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended to read as follows:

"(9) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B

or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 471(a)(8) (42 U.S.C. 671(a)(8)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6024. DISCLOSURE OF INFORMATION ABOUT AFDC APPLICANTS AND RECIPIENTS AUTHORIZED FOR PURPOSES DIRECTLY CONNECTED TO STATE FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 402(a)(9)(A) (42 U.S.C. 602(a)(9)(A)) is amended by striking "or D" and inserting ", D, or E".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6025. REPATRIATION.

(a) IN GENERAL.—Section 1113 of the Social Security Act (42 U.S.C. 1313), as amended by section 140 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended—

(1) in subsection (d), by striking "on or after October 1, 1989" and inserting "after September 30, 1991"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) The Secretary may accept on behalf of the United States gifts, in cash or in kind, for use in carrying out the program established under this section. Gifts in the form of cash shall be credited to the appropriation account from which this program is funded, in addition to amounts otherwise appropriated, and shall remain available until expended.

"(2) Gifts accepted under paragraph (1) shall be available for obligation or other use by the United States only to the extent and in the amounts provided in appropriation Acts.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for fiscal years beginning after September 30, 1989.

SEC. 6026. GOOD CAUSE EXCEPTION TO REQUIRED COOPERATION FOR TRANSITIONAL CHILD CARE BENEFITS.

(a) IN GENERAL.—Section 402(g)(1)(A)(vi)(II) (42 U.S.C. 602(g)(1)(A)(vi)(II)) is amended by inserting ", without good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child for whom child care is to be provided" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6027. TECHNICAL CORRECTION REGARDING PENALTY FOR FAILURE TO PARTICIPATE IN JOBS PROGRAM.

(a) IN GENERAL.—Section 407(b)(1)(B)(iii) (42 U.S.C. 607(b)(1)(B)(iii)) is amended—

(1) before the dash, in the matter preceding subclause (I), by striking "child or relative specified in subsection (a)" and inserting "parent described in subparagraph (A)(i) and to any spouse of such parent (unless such spouse is participating in a program under part F)"; and

(2) in subclause (I), by striking "if and for so long as such child's parent described in subparagraph (A)(i)" and inserting "if and for so long as such parent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6028. TECHNICAL CORRECTION REGARDING AFDC-UP ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Section 407(d)(1) (42 U.S.C. 607(d)(1)) is amended—

(1) by striking "a calendar quarter (A)" and inserting "(A) a calendar quarter";

(2) by striking "or" at the end of subparagraph (A); and

(3) by inserting ", and (C) a calendar quarter ending before October 1990 in which such individual participated in a community work experience program under section 409 (as in effect immediately before October 1, 1990) or the work incentive program established under part C (as in effect immediately before such date)" before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6029. TECHNICAL AMENDMENTS TO NATIONAL COMMISSION ON CHILDREN.

Section 1139(d) (42 U.S.C. 1320b-9(d)) is amended in the matter preceding paragraph (1), by striking "an interim report no later than March 31, 1991, and a final report no later than September 30, 1990" and inserting "an interim report no later than September 30, 1990, and a final report no later than March 31, 1991".

SEC. 6030. FAMILY SUPPORT ACT DEMONSTRATION PROJECTS.

Section 505 of the Family Support Act of 1988 is amended—

(1) in subsection (a), by inserting "in each of the fiscal years 1990, 1991, and 1992," before "shall"; and

(2) in subsection (e), by striking "September 30, 1989" and inserting "September 30 of the fiscal year specified in the agreement described in subsection (a)".

SEC. 6031. STUDY OF JOBS PROGRAMS OPERATED BY INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States (hereafter in this section referred to as the "Comptroller") shall conduct a study of the implementation of section 482(i) of the Social Security Act (42 U.S.C. 682(i)) relating to job opportunities and basic skills training programs (hereafter in this section referred to as "JOBS programs") operated by Indian tribes and Alaskan Native organizations (as defined in paragraph (5) of such section 482(i)).

(b) REQUIREMENTS FOR STUDY.—In conducting the study described in subsection (a) the Comptroller shall—

(A) identify any problems associated with the implementation of section 482(i) of the Social Security Act; and

(B) assess (to the extent practicable) the effectiveness of the JOBS programs operated by Indian tribes and Alaskan Native organizations.

(c) REPORT.—Upon completion of the study described in subsection (a), the Comptroller shall submit a report to the appropriate committees of the Congress that includes—

(A) a summary of the findings of the study; and

(B) recommendations with respect to proposed legislation or changes in administrative policy to improve the effectiveness of JOBS programs conducted pursuant to section 482(i) of the Social Security Act.

SEC. 6032. PROPOSED EMERGENCY ASSISTANCE AND AFDC SPECIAL NEEDS REGULATIONS.

Subsection (c) of section 8005 of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1990" and inserting "1991".

PART IV—CHILD WELFARE AND FOSTER CARE

SEC. 6040. CLARIFICATION OF TERMINOLOGY RELATING TO ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Paragraph (3) of section 474(a) (42 U.S.C. 674(a)(3)) is amended by inserting "provision of child placement services and for the" before "proper and efficient".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6041. SECTION 427 TRIENNIAL REVIEWS.

(a) AMENDMENTS TO SECTION 10406 OF OBRA 1989.—Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note) is amended—

(1) by striking "1991" and inserting "1992";

(2) by striking "1990" and inserting "1991"; and

(3) in the section heading, by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENT.—The item relating to section 10406 in the table of contents appearing immediately after section 10000 of such Act is amended by striking "1990" and inserting "1991".

SEC. 6042. INDEPENDENT LIVING INITIATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 477(a)(2) (42 U.S.C. 677(a)(2)) is amended—

(1) by inserting "who has not attained age 21" after "may at the option of the State also include any child"; and

(2) by striking ", but such child" and all that follows through "care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made under part E of title IV of the Social Security Act for fiscal years beginning with fiscal year 1991.

SEC. 6043. GRANTS TO STATES FOR CHILD CARE.

(a) RULES GOVERNING PROVISION OF CHILD CARE TO ELIGIBLE FAMILIES.—Section 402 (42 U.S.C. 602) is amended by adding at the end the following:

"(i)(1) Each State agency may, to the extent that it determines that resources are available, provide child care in accordance with paragraph (2) to any low income family that the State determines is not eligible for aid under the State plan approved under this part, needs such care in order to work, and would be at risk of becoming eligible for aid under the State plan approved under this part if such care were not provided.

"(2) The State agency may provide child care pursuant to paragraph (1) by—

"(A) providing such care directly;

"(B) arranging such care through providers by use of purchase of service contracts or vouchers;

"(C) providing cash or vouchers in advance to the caretaker relative in the family;

"(D) reimbursing the caretaker relative in the family; or

"(E) adopting such other arrangements as the agency deems appropriate.

"(3)(A) A family provided with child care under paragraph (1) shall contribute to such care in accordance with a sliding scale formula established by the State agency based on the family's ability to pay.

"(B) The State agency shall make payment for the cost of child care provided under paragraph (1) with respect to a family in an amount that is the lesser of—

"(i) the actual cost of such care; and

"(ii) the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

"(4) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this subsection—

"(A) shall not be treated as income or as a deductible expense for purposes of any other Federal or federally assisted program that bases eligibility for or amount of benefits upon need; and

"(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(5) Amounts expended by the State agency for child care under paragraph (1) shall be treated as amounts for which payment may be made to a State under section 403(n) only to the extent that—

"(A) such amounts are, subject to paragraph (3)(B), within such limits as the State may prescribe;

"(B) the care involved meets applicable standards of State and local law; and

"(C) the entity providing the care allows parental access.

"(6)(i) Each State shall prepare reports annually, beginning with fiscal year 1993, on the activities of the State carried out with funds made available under section 403(n).

"(ii) The State shall make copies of each report required by this paragraph available for public inspection within the State, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

"(iii) The Secretary shall annually compile the State reports transmitted to the Secretary pursuant to clause (ii), and submit such annual compilation to the Congress.

"(B) Each report prepared and transmitted by a State under subparagraph (A) shall set forth with respect to child care services funded under section 403(n)—

"(i) showing separately for center-based child care services, group home child care services, family child care services, and relative care services the number of children who received such services, and the average cost of such services;

"(ii) the criteria applied in determining eligibility or priority for receiving services, and sliding fee schedules;

"(iii) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in clause (i); and

"(iv) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

"(C) Within 12 months after the date of the enactment of this subsection, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this paragraph, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

"(D) The Secretary shall issue an interim report on the matters described in subparagraphs (A) and (B) with respect to fiscal year 1992, based on information made available by the States.".

(b) PAYMENTS TO STATES.—Section 403 (42 U.S.C. 603) is amended by adding at the end the following:

"(n)(1) In addition to any payment under subsection (a) or (l), each State shall be entitled to payment from the Secretary of an amount equal to the lesser of—

"(A) the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State in providing child care pursuant to section 402(i) for any fiscal year; and

"(B) the amount determined under paragraph (2) with respect to the State for the fiscal year.

"(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (B) for such fiscal year as the number of children residing in the State in the second preceding fiscal year bears to the number of children residing in the United States in the second preceding fiscal year.

"(B) The amount specified in this subparagraph is—

"(i) $65,000,000 for fiscal year 1991;

"(ii) $65,000,000 for fiscal year 1992;

"(iii) $65,000,000 for fiscal year 1993;

"(iv) $65,000,000 for fiscal year 1994; and

"(v) $65,000,000 for fiscal year 1995, and for each fiscal year thereafter.".

(c) INCREASE AND EXTENSION OF GRANTS TO STATES TO IMPROVE CHILD CARE LICENSING AND REGISTRATION REQUIREMENTS, AND TO MONITOR CHILD CARE PROVIDED TO CHILDREN RECEIVING AFDC.—Section 402(g)(6)(D) (42 U.S.C. 602(g)(6)(D)) is amended by inserting ", and $35,000,000 for each of fiscal years 1992, 1993, and 1994" before the period.

(e) COORDINATION WITH OTHER PROGRAMS FOR CHILDREN.—Section 402(g)(7) (42 U.S.C. 602(g)(7)) is amended by inserting "and subsection (i)" after "this subsection".

(f) EFFECTIVE DATE.—Except as otherwise expressly provided, the amendments made by this section shall take effect on October 1, 1990.

PART V—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SEC. 6050. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), in the matter following subparagraph (C), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 6051. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

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

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or

surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 6052. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 6053. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.".

(B) TITLE XVI.—

(i) 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 another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j)(2) (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with the person to serve as representative payee, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with

an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(IV), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any such notice shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B)(i) Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(II) verify the social security account number (or employer identification number) of such person;

"(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(III);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(IV), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

"(iv) The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is—

"(I) a relative of the individual if such relative resides in the same household as such individual;

"(II) a legal guardian or legal representative of the individual;

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of the individual; or

"(V) an individual who is determined by the Secretary, on the basis of written find-

ings 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 of 15 years.

"(ix) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; and

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(x) Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(xi) Before the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to—

"(I) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent; or

"(II) the individual, in any other case.

"(xii) Any notice referred to in clause (xi) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative payee of the individual, and explain to the reader the right under clause (x) of the individual or the legal guardian or legal representative of the individual—

"(I) to appeal a determination that a representative payee is necessary for the individual;

"(II) to appeal the selection of a particular person to be the representative payee of the individual; and

"(III) to review the evidence upon which the selection is based and submit additional evidence.".

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals,

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual, and

"(iii) was in existence on October 1, 1988.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

"(D) This paragraph shall cease to be effective on January 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(III) by inserting after subparagraph (C) the following:

"(D)(i) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

"(ii) For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee;

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals;

"(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual; and

"(cc) was in existence on October 1, 1988.

"(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

"(iv) This subparagraph shall cease to be effective on January 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect July 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect January 1, 1992, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) (42 U.S.C. 605(j)(3)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

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

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (42 U.S.C. 405(j) and 1383(a)(2), respectively) (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in all or part of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(5) (as so redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(E) (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (a)(3)(A)(ii)(I) of this section, is amended to read as follows:

"(E) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1991.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who receive benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 603. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE II.—Subsection (a) of section 206 (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fifth sentence, by striking "Whenever" and inserting "Except as provided in paragraph (2)(A), whenever"; and

(C) by striking the sixth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to section 223(g).

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to the maximum fee, but not in excess of 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

"(5) Any person who".

(2) TITLE XVI.—Paragraph (2)(A) of section 1631(d) (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraphs (2)(B) and (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, and in so applying such provisions 'section 1631(g)' shall be substituted for 'section 1127(a)'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 (42 U.S.C. 1320a-6(a)) is amended by adding at the end the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recov- ered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATATION OF TRAVEL EXPENSES FOR REP- RESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 6055. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) of the Social Security Act (42 U.S.C 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) (42 U.S.C 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(A) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1991.

SEC. 6056. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES.—

(1) IN GENERAL.—During the period of each 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 procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication,

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

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORT.—

(1) IN GENERAL—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on the progress of the demonstration projects conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. The report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 6057. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION.

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

(d) GAO REPORT.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing the level of telephone access by the public to the local offices of the Social Security Administration.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on April 1, 1991.

SEC. 6058. AMENDMENTS RELATING TO SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL.—Section 1142 of the Social Security Act (42 U.S.C. 1320b-13), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2485), is amended—

(1) by striking "2sec. 1142." and inserting "sec. 1143."; and

(2) in subsection (c)(2), by striking "a biennial" and inserting "an annual".

(b) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—Section 6103(p)(4) of such Code (relating to safeguards) is amended, in the matter following subparagraph (f)(iii), by striking "subsection (m)(2), (4), or (6)" and inserting "paragraph (2), (4), (6), or (7) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2), (4), or (6)" and inserting "(m)(2), (4), (6), or (7)".

SEC. 6059. TRIAL WORK PERIOD DURING ROLLING FIVE-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES.

(a) IN GENERAL.—Section 222(c)(42 U.S.C. 422(c)) is amended—

(1) in paragraph (4)(A), by striking ", beginning on or after the first day of such period," and inserting "in any period of 60 consecutive months,"; and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 6060. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM.

(a) IN GENERAL.—Section 225(b) (42 U.S.C. 425(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) such individual is participating in an approved program of vocational rehabilitation services, and"; and

(2) in paragraph (2), by striking "Commissioner of Social Security" and inserting "Secretary".

(b) PAYMENTS AND PROCEDURES.—Section 1631(a)(6) (42 U.S.C. 1383(a)(6)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) such individual is participating in an approved program of vocational rehabilitation services, and"; and

(2) in subparagraph (B), by striking "Commissioner of Social Security" and inserting "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month, as determined by the Secretary of Health and Human Services.

SEC. 6061. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS.

(a) IN GENERAL.—Section 228(a)(2) (42 U.S.C. 428(a)(2)) is amended by striking "(B)" and inserting "(B)(i) attained such age after 1967 and before 1972, and (ii)".

(b) EFFECTIVE DATE— The amendment made by subsection (a) shall apply with respect benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 6062. ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES AND REVENUES FROM TAXATION OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 201(a) (42 U.S.C. 401(a)) is amended—

(1) in the first sentence following clause (4)—

(A) by striking "monthly on the first day of each calendar month" both places it appears and inserting "from time to time";

(B) by striking "to be paid to or deposited into the Treasury during such month" and inserting "paid to or deposited into the Treasury"; and

(2) in the last sentence, by striking "Fund;" and inserting "Fund. Notwithstanding the preceding sentence, in any month for which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

SEC. 6063. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).''; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 6064. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of";

(B) by striking the last sentence; and

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

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or "(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990".

(E)(i) Section 215(d) (42 U.S.C. 415(d)) is further amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

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

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month

period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 6065. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) (42 U.S.C. 623(e)) is amended by—

(1) by inserting "(1)" after "(e)"; and

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

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

Subtitle B—Medicare

PART 1—PROVISIONS RELATING ONLY TO PART A

SEC. 6101. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886(g)(3)(A)(v) (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1991, and by 10 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during the period beginning October 1, 1991 and ending September 30, 1995."

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(3)(B) (42 U.S.C. 1395ww(g)(3)(B)) is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in subsection (mm)(1))."

(c) PROSPECTIVE PAYMENT FOR CAPITAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by inserting at the end of subparagraph (A) the following: "Payment under such system shall be determined in a manner that assures that the expected aggregate payments for such capital-related costs for discharges occurring during fiscal year 1992 are not greater or less than those that would have been made for portions of cost reporting periods occurring during fiscal year 1992, taking into account the reductions specified in paragraph (3)(A)(v).";" and

(2) by inserting after subparagraph (B)(iv) the following sentence: "Notwithstanding clause (i), such system may provide for continuation of payment for fixed capital on a reasonable cost basis, subject to reductions in paragraph (3)(A)(v).".

SEC. 6102. PROSPECTIVE PAYMENT HOSPITALS.

(a) CHANGES IN HOSPITAL UPDATE FACTORS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) by striking "and" at the end of subclause (V);

(B) in subclause (VI)—

(i) by striking "1991" and inserting "1994", and

(ii) by redesignating such subclause as subclause (IX); and

(C) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 1.5 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 1.4 percentage points for hospitals in all areas, and".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991.

(b) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(A) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,";

(B) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,";

(C) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,";

(D) in subclause (IX)—

(i) by striking "1994" and inserting "1995", and

(ii) by redesignating such subclause as subclause (X); and

(E) by inserting after subclause (VIII) the following new subclause:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of ½ (compared to fiscal year 1993) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,".

(2) CONFORMING AMENDMENTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended in paragraph (3)(A)—

(A) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1994, the Secretary",

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

"(iii)(I) For discharges occurring in the fiscal year beginning on October 1, 1994, the average standardized amount for hospitals located in a rural area shall equal the average standardized amount for hospitals located in an other urban area.

"(II) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(D) in paragraph (3)(B), by striking "for hospitals located in an urban area and for hospitals located in a rural area" and by striking "for hospitals located in such respective area";

(E) in paragraph (3)(D)(i)—

(i) in the matter preceding subclause (I), by striking "an urban area (or," and all that follows through "area)," and inserting "a large urban area, and

(ii) in subclause (I), by striking "an urban area" and inserting "a large urban area"; and

(F) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas".

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by paragraph (2) shall apply to payments for discharges occurring on or after October 1, 1994.

(c) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991.—

(1) AREA WAGE INDEX.—Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall—

(A) for discharges occurring during fiscal year 1991, apply a combined area wage index consisting of—

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(2) STUDY OF HOSPITAL OCCUPATIONAL MIX AND WAGE INDEX COMPUTATION.—The Prospective Payment Assessment Commission (herc-

inafter referred to as the "Commission") shall examine State level and other available data measuring earnings and paid hours of employment by occupational category of workers employed by hospitals. The examination shall include analysis of the impact of variation in occupational mix on the computation of the area wage index (as computed under section 1886 (d)) of the Social Security Act. Based on the findings of this analysis, the Commission shall include in its March 1991 report recommendations regarding the feasibility and desirability of modifying the wage index computation to take into account occupational mix. In considering alternative computations or adjustments to the wage index, the Commission shall examine and take into account variation in occupational mix resulting from differences in State codes and requirements.

SEC. 6103. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—

(1) Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "1.89" and inserting in lieu thereof "1.68"; and

(B) in subclause (II), by striking "1.43" and inserting in lieu thereof "1.28".

(2) Section 1886(d)(3)(C)(ii) (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 6103 of the Omnibus Budget Reconciliation Act of 1990" after "1987"; and

(B) in subclause (II)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 6103 of the Omnibus Budget Reconciliation Act of 1990" after "1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after January 1, 1991.

SEC. 6104. PPS EXEMPT HOSPITALS.

(a) DEADLINES FOR REVIEW AND DECISION.—(1) Section 1816(f) (42 U.S.C. 1395h(f)) is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

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

(C) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for a reconsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

"(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

(2) Section 1886(b)(4)(A) (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 180 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

(b) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) (42 U.S.C. 1395ww(b)(4)) is amended—

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

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

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located substantially exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

(c) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health Care Financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such Act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such Act.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on the effective date of the next regular publication of such standards, and the amendments made by subsections (b) and (c) shall take effect upon enactment of this Act.

SEC. 6105. EXPANSION OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(4), by striking "90 days each" and all that follows through "with respect to" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "90 days each" and all that follows through "lifetime" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period during the individual's lifetime", and

(B) in paragraph (2)(B), by striking "a 90- or 30-day period," and inserting "a 90- or 30-day period or a subsequent extension period,".

(b) CONFORMING AMENDMENT.—Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting ", and"; and

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

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care and services furnished on or after January 1, 1990.

SEC. 6106. MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO PART A.

(a) EXTENSIONS OF WAIVERS OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOSPICES.—

(1) SKILLED NURSING FACILITIES.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "October 31, 1990" and inserting "December 31, 1995".

(2) HOSPICES.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(b) DESIGNATIONS OF CERTAIN HOSPITALS AS RURAL PRIMARY CARE HOSPITALS.—

(1) PRIORITY IN DISCRETIONARY DESIGNATIONS GIVEN TO HOSPITALS AFFILIATED WITH A RURAL HEALTH NETWORK IN A PARTICIPATING STATE.—Section 1820(i)(2)(C) (42 U.S.C. 1395i-4(i)(2)(C)) is amended by adding at the end the following new sentence: "In designating facilities as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities that have entered into an agreement described in subsection (g)(2) with a rural health network located in a State receiving a grant under subsection (a)(1).".

(2) ELIGIBILITY OF CERTAIN CLOSED HOSPITALS.—Section 1820(f)(1)(B) (42 U.S.C. 1395i-4(f)(1)(B)) is amended by striking "hospital," and inserting the following: "hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),".

(3) ELIGIBILITY OF OTHER FACILITIES AS RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended by inserting before the period at the end ", or meets such substitute criteria limiting the number of inpatient beds and the hours of inpatient care as the State may impose with the approval of the Secretary".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act.

(c) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(4)(D), by striking the last sentence;

(2) in subsection (e)(2)—

(A) by striking "recommendations to the Secretary" and inserting "recommendations to the Secretary and Congress";

(B) by inserting "(A)" after "(2)" and by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subsection (d)(4)(D) and subparagraph (A), study and make recommendations for each fiscal year to the Secretary and the Congress regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the de-

velopment of new institutional reimbursement policies under this title, including recommendations relating to—

"(i) payments during such fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs; and

"(ii) additional payments made to hospitals under subsection (d), including payments made—

"(I) to hospitals located in large urban areas;

"(II) to hospitals located in rural areas, including regional referral centers and sole community hospitals;

"(III) for the indirect costs of medical education;

"(IV) for hospitals serving a disproportionate share of low-income patients; and

"(V) for discharges described in subsection (d)(5)(A).

"(C) The Commission, by not later than June 1 of each year (beginning with calendar year 1991), shall submit a report to the Congress examining the American health care system including issues related to—

"(i) trends in health care costs;

"(ii) the financial condition of hospitals including the level of payments made to hospitals under this title;

"(iii) trends in utilization of health care services; and

"(iv) new and innovative methods utilized by private employers and insurers to constrain growth in health care related costs.

"(D) The Commission shall include in its annual recommendations under subparagraph (B) recommendations on major revisions to the hospital payment system including revisions of the prospective payment system or other modifications to payment methods under this title for hospital outpatient services, and recommendations with regard to payments to hospitals exempt from the prospective payment system, to skilled nursing facilities, and for home health services.";

(3) in subsection (e)(3)(A) by striking the period at the end and inserting the following: ", together with any other recommendations under paragraph (2)(B) that are applicable to institutional reimbursements under this title in that fiscal year.";

(4) in subsection (e)(4)—

(A) by striking "(4)" and inserting "(4)(A)"; and

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

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commission under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(5) in subsection (e)(5)—

(A) by striking "recommendation" each place it appears and inserting "recommendations"; and

(B) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(6) in subsection (e)(6)(G) by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(d) PROPAC STUDY OF MEDICAID PAYMENTS TO HOSPITALS.—The Prospective Payment Assessment Commission (hereafter in this subsection referred to as the "Commission") shall conduct a study of hospital payment rates under State medicaid programs established under title XIX of the Social Security Act. The Commission shall specifically examine in such study the level of hospital reimbursement under title XIX programs, the relationship between these payments and payments made to hospitals under title XVIII of the Social Security Act, and the financial condition of affected hospitals, with particular attention to hospitals in urban areas which treat large numbers of title XIX recipients and other low-income individuals. By no later than October 1, 1991, the Commission shall submit a report to Congress on such study and shall include such recommendations as the Commission deems appropriate.

(e) UPDATE OF ROUTINE SERVICE COSTS OF SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 6024 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following new sentence: "The Secretary shall update such costs under such section for cost reporting periods beginning on or after October 1, 1989, by using cost reports submitted by skilled nursing facilities for cost reporting periods ending not earlier than January 31, 1988, and not later than December 31, 1988.".

(2) 2-YEAR UPDATES REQUIRED.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting before the period at the end of the matter following such subsection the following: ", and shall, for cost reporting periods beginning on or after October 1, 1992 and every 2 years thereafter, provide for an update to the per diem cost limits described in this subsection".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(f) CLARIFICATION OF SECRETARIAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Section 6003 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following:

"(k) CLARIFICATION OF WAIVER AUTHORITY.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is authorized to waive such provisions of title XVIII of the Social Security Act as are necessary to conduct any demonstration project for limited-service rural hospitals with respect to which the Secretary has entered into an agreement before the date of the enactment of this Act.".

(2) NURSING HOME DEMONSTRATIONS.—Section 6901(d)(3)(B) of the Omnibus Budget Reconciliation Act of 1989 is amended to read as follows:

"(B) The Secretary may also waive the survey and certification requirements described in subparagraph (A) to the extent the Secretary determines is necessary to carry out a pilot demonstration project in Wisconsin and demonstration projects in other States (relating to testing an approved alternative survey and certification process) as part of a nursing home prospective case-mix payment demonstration project.".

(3) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(g) GEOGRAPHIC CLASSIFICATION REVIEW BOARD.—(1) For purposes of section 1886(d)(10)(C)(ii) (42 U.S.C. 1395ww(d)(10)(C)(ii)), an application of a subsection (d) hospital submitted to the Secretary under such clause shall be considered to have been submitted by the first day of the preceding fiscal year under such clause if it is submitted within 60 days of the date of publication of the guidelines described in subparagraph (D)(i) of such section.

(2) Section 1886(d)(10) is amended—

(A) in subparagraph (B)(i) by striking "representatives" and inserting "representative";

(B) in subparagraph (B)(i) by striking "1 member shall be a member of the Prospective Payment Assessment Commission, and at least"; and

(C) in subparagraph (C)(iii)(II) by striking the first two sentences and inserting in lieu thereof the following: "Appeal of decisions of the Board shall be subject to the provisions of 5 U.S.C. section 557b".

(h) REVIEW OF HOSPITAL REGULATIONS WITH RESPECT TO RURAL HOSPITALS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall review the requirements in regulations developed pursuant to section 1861(e) of the Social Security Act to determine which requirements could be made less administratively and economically burdensome for hospitals defined in section 1886(d)(1)(B) of the Social Security Act that are located in a rural area as defined in section 1886(d)(2)(D) of the Social Security Act without diminishing the quality of care provided by such hospitals to individuals entitled to receive benefits under part A of title XVIII of the Social Security Act. Such review shall specifically include standards related to staffing requirements.

(2) REPORT.—The Secretary of Health and Human Services shall report to Congress by April 1, 1992, on the results of the review conducted under subsection (a), and include conclusions on which regulations, if any, should be modified with respect to hospitals located outside a metropolitan statistical area as described in subsection (a).

(i) MEDICARE NURSING HOME REFORM PROVISIONS.—

(1) NURSE AIDE TRAINING AMENDMENTS.—

(A) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall not take (and shall not continue) any action against a State under section 1864 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1819(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1819(f)(2)(A)(iv)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(B) PART TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING.—Section 1819(b)(5)(A) (42 U.S.C. 1395i-3(b)(5)(A)) is amended—

(i) by striking ", temporary, per diem, or other";

(ii) by inserting "(i)" after "(A)";

(iii) by redesignating clauses "(i)" and "(ii)" as subclauses "(I)" and "(II)" respectively; and

(iv) by adding at the end the following:

"(ii) EXCEPTION.—A skilled nursing facility must not use on a temporary, per diem, or on any other than a full-time basis any individual as a nurse aide in the facility on or after October 1, 1990, unless the individual meets the requirements described in subclauses (I) and (II) of clause (i).".

(B) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING OF AIDES NOT YET EMPLOYED BY A

FACILITY.—Section 1819(f)(2)(A)(iv)(III) (42 U.S.C. 1395i-3(f)(2)(A)(iv)(III)) is amended by striking "such program" and inserting "such program, except, that on accredited nonfacility based program may impose such charges on individuals who are not presently employed by a nursing facility or who have not yet had an offer for future employment at such a facility".

(C) NURSE AIDE REGISTRY.—

(i) IN GENERAL.—Section 1819(b)(5)(C) (42 U.S.C. 1395i-3(b)(5)(C)) is amended by adding at the end thereof the following new sentence: "In the case of an individual who a nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual resided".

(ii) DEEMED AIDES TO BE INCLUDED ON REGISTRY.—Section 1819(e)(2)(A) (42 U.S.C. 1395i-3(e)(2)(A)) is amended by striking "individuals" and inserting "individuals (including those individuals deemed under section 6901 (b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 to have satisfied the training and competency evaluation program requirements under this section)".

(2) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(A) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(iv) (42 U.S.C. 1395i-3(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and access to current clinical records of the resident promptly upon reasonable request (as defined by the Secretary) by the resident or resident's legal representative".

(B) MAINTAINING REGULATORY STANDARDS FOR CERTAIN NURSING AND RELATED SERVICES.—The Secretary shall provide that any regulations promulgated by the Secretary with respect to nursing and related services described in clauses (ii), (iv), and (v) of section 1819(b)(4)(A) of the Social Security Act, are comparable or more strict in terms of requirements for such services that such regulations for such services were prior to the enactment of the Omnibus Budget Reconciliation Act of 1987.

(C) STUDY.—The Secretary shall conduct a study on the hiring and dismissal practices of nursing facilities with respect to social workers, dieticians, activities professionals, and medical records practitioners, and report to Congress by January 1, 1993, on whether facilities have on their staffs, persons with significantly different credentials as a result of new regulations that became effective October 1, 1990, and the impact of staff composition on quality of care.

(D) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1819(f)(2)(B) (42 U.S.C. 1395i-3(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(E) OMBUDSMAN PROGRAM COORDINATION WITH STATE MEDICAID AND SURVEY AND CERTIFICATION AGENCIES.—Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended to read as follows:

"(B) NOTICE TO OMBUDSMAN.—Each State agency with an agreement with the Secretary under this section shall enter into a written agreement with the Office of the State Long-Term Care Ombudsman (as defined by the Older Americans Act), to provide for information exchange, case referral, and prompt notification of the office of any adverse action to be taken against a nursing facility.".

(F) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICARE NURSE STAFFING WAIVERS.—Section 1819(b)(4)(C)(ii) (42 U.S.C. 1395i-3(b)(4)(C)(ii)) is amended by adding at the end thereof the following: "The Secretary shall provide notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies, and shall ensure that a nursing facility that is granted such a waiver is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.".

(G) STUDY ON STAFFING REQUIREMENTS IN SKILLED NURSING FACILITIES.—The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for skilled nursing facilities receiving payments under title XVIII of the Social Security Act. If the Secretary determines that the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(H) PERIOD FOR RESIDENT ASSESSMENT.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(I) QUALIFICATION OF MEDICARE FACILITIES TO PROVIDE NURSE AIDE TRAINING AND COMPETENCY EVALUATION.—Section 1819(f)(2) (42 U.S.C. 1395i-3(f)(2)) is amended—

(i) in subparagraph (B)(iii), by amending subclause (I) to read as follows:

"(I) offered by or in a skilled nursing facility described in subparagraph (C), or"; and

(ii) by adding after subparagraph (B) the following new subparagraph:

"(C) SKILLED NURSING FACILITIES INELIGIBLE TO OFFER PROGRAMS.—A skilled nursing facility shall be ineligible to offer a program under this paragraph—

"(i) if at any time on or after October 1, 1988, the Secretary or a State agency administering a program under title XIX terminated or terminates the facility's provider agreement under this title or title XIX, until after the end of a period of at least two years following reinstatement, during which period—

"(I) no survey or investigation finds any deficiencies warranting termination, and

"(II) at least one standard survey is conducted pursuant to subsection (g); or

"(ii) if the facility—

"(I) received a notice of termination of its provider agreement under this title or title XIX from the Secretary or a State agency at any time during the one-year period ending September 30, 1990; or

"(II) is found, pursuant to a standard survey or investigation under subsection (g) or section 1919(g), to have deficiencies resulting in a civil monetary penalty in excess of $5,000 denial of payment, or appointment of temporary management pursuant to subsection (h)(2)(B) or to section 1919(h)(2)(A), until after the completion of a subsequent standard survey under subsection (g) which finds no such deficiencies.".

(J) RETRAINING REQUIRED.—Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)) is amended by inserting before the period the following: ", or a new competency evaluation program".

(K) CHARGES FOR NURSE AID TRAINING.—Section 1819(f)(2)(A)(iv) (42 U.S.C. 1395i-3(f)(2)(A)(iv)) is amended by adding the following at the end:

"(III) For individuals employed or under contract for employment as a nurse aide within 12 months after successful completion of a nonfacility-based, State-approved nurse aide training and competency evaluation program, the State must ensure that the costs incurred by such individuals for such programs are reimbursed to such individuals.".

(3) EFFECTIVE DATES.—The amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(j) NO RESTANDARDIZING FOR RECENT ADJUSTMENTS.—

(1) ADJUSTMENTS UNDER OBRA 1989.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(2) EFFECTIVE DATE.—The amendment made by subparagraph (D)(i) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

PART 2—PROVISIONS RELATING ONLY TO PART B

Subpart A—Payment for Physicians' Services

SEC. 6111. REDUCTION IN PAYMENTS FOR OVERVALUED PROCEDURES.

(a) PREVIOUSLY IDENTIFIED PROCEDURES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following:

"(16)(A) In determining the reasonable charge for a physicians' service specified in paragraph (14)(C)(i) and furnished during 1991, the prevailing charge for such service shall not exceed the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by 15 percent or, if less, one-third of the percent (if any) by which such prevailing charge exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of—

"(I) the reduced national weighted average prevailing charge for the service (specified in clause (ii)), and

"(II) the adjustment factor (specified in clause (iii)) for the locality for the service.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified in subparagraph (C)(i)) reduced by the percentage change (specified in subparagraph (C)(ii)) for the service.

"(iii) The 'adjustment factor' for a locality for a physicians' service is the sum of—

"(I) the practice expense component percent (divided by 100) for the service specified in paragraph (14)(B)(iii)(I), multiplied by the geographic practice cost index value specified for the locality in paragraph (14)(C)(iv), and

"(II) 1 minus the practice expense component percent (divided by 100) for the service, multiplied by the geographic work index value specified for the locality in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243).

"(C) For purposes of this paragraph:

"(i)(I) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in paragraph (14)(C)(i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(II) For purposes of determining the national weighted average prevailing charge for a service under subclause (I), the Secretary shall adjust the prevailing charge for the service for each locality by the adjustment factor (specified in subparagraph (B)(iii)) for that locality.

"(ii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified in paragraph (14)(C)(iii).".

(b) UNSURVEYED SURGICAL AND TECHNICAL PROCEDURES.—Section 1842(b), as amended by subsection (a) (42 U.S.C. 1395u(b)), is further amended by adding at the end the following new paragraph:

"(17)(A) In determining the reasonable charge for all physicians' services other than physicians' services specified in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 4 percent.

"(B) For purposes of subparagraph (A), the physicians' services specified in this subparagraph are as follows:

"(i) Radiology, anesthesia and physician pathology services, and physicians' services specified in paragraph (14)(C)(i).

"(ii) Primary care services specified in subsection (i)(4), hospital inpatient medical services (HCPCS codes 90200 through 90292), consultations (HCPCS codes 90600 through 90654), preventive medicine visits (HCPCS codes 90750 through 90754), emergency care facility services (HCPCS codes 99062 through 99065), and critical care services (HCPCS codes 99160 through 99174).

"(iii) Partial, simple and subcutaneous mastectomy (HCPCS codes 19160 through 19180); tendon sheath injections and small joint arthrocentesis (HCPCS codes 20550 through 20610); femoral fracture and trochanteric fracture treatments (HCPCS codes 27230 through 27248); endotracheal intubation (HCPCS code 31500); thoracentesis (HCPCS code 32000); thoracostomy (HCPCS codes 32020 through 32036); lobectomy (HCPCS codes 32485 through 32490); aneurysm repair (HCPCS codes 35022 through 35111); enterectomy (HCPCS code 44115); colectomy (HCPCS code 44151); cholecystectomy (HCPCS code 47612); cystourethroscopy (HCPCS code 52340); transurethral fulguration and resection (HCPCS codes 52606 and 52620); sacral laminectomy (HCPCS code 63011); tympanoplasty with mastoidectomy (HCPCS codes 69643 and 69645); and ophthalmoscopy (HCPCS codes 92225, 92250, and 92260).".

SEC. 6112. RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and

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

"(D) 1991 FEE SCHEDULES.—For radiologist services (other than portable X-ray services) furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—

"(I) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished for the period during 1990 beginning April 1 using the best available data.

"(II) For purposes of determining the national average conversion factor under subclause (I), the Secretary shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (iii)) for that locality.

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 12 percent.

"(iii) LOCAL ADJUSTMENT.—Subject to clause (iv), the conversion factor to be applied to the professional or technical component of a service in a locality is the sum of—

"(I) the product of (aa) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work, and (bb) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (aa) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii), and (bb) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause with respect to the professional component of a service, 80 percent of the conversion factor shall be considered to be attributable to physician work, and with respect to the technical component of the service, 35 percent shall be considered to be attributable to physician work.

"(iv) MAXIMUM REDUCTION.—The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of a service shall not be reduced by more than 8 percent below the conversion factor applied in the locality under subparagraph (C) to such component.

"(v) TREATMENT OF GLOBAL FEES.—In applying this subparagraph in the case of a global fee for a service that includes a professional and a technical component, the conversion factor to be applied is the sum of the conversion factors for the professional and technical components of the service computed separately.".

(b) REDUCTION IN PREVAILING CHARGE LEVEL FOR OTHER RADIOLOGY SERVICES.—

(1) IN GENERAL.—In applying part B of title XVIII of the Social Security Act, the prevailing charge for physicians' services, furnished during 1991, which are radiology services may not exceed the fee schedule amount established under section 1834(b) of such Act with respect to such services.

(2) EXCEPTION.—Paragraph (1) shall not apply to radiology services which are subject to section 6105(b) or 6108(b) of the Omnibus budget Reconciliation Act of 1989.

(c) SPECIAL RULE FOR NUCLEAR MEDICINE SERVICES.—

(1) PAYMENT FOR SERVICES FURNISHED IN 1990 AND 1991.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "after March 31, 1990, and before January 1, 1992" after "furnished", and

(B) by striking all after "Act" the second place it appears and inserting ", there shall be substituted for the fee schedule otherwise applicable a fee schedule based on ½ on the fee schedule computed under such section (without regard to this subsection) and ½ on 101 percent of the 1988 prevailing charge for such services.".

(2) ADJUSTED HISTORICAL PAYMENT BASIS.—Section 1848(a)(2)(D) (42 U.S.C. 1395w-4(a)(2)(D)) is amended—

(A) in clause (ii) by inserting ", but excluding nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" after "section 1834(b)(6))", and

(B) by adding at the end the following:

"(iii) NUCLEAR MEDICINE SERVICES.—In applying clause (i) in the case of physicians' services which are nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989, there shall be substituted for the weighted average prevailing charge the amount provided under such section.".

(3) Section 1848(b)(2)(A) is amended by striking "section 1834(b)(6)" and inserting "section 1834(b)(6), but excluding nuclear medicine services".

(4) For purposes of determining the "fee schedule amount" under section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) for nuclear medicine services furnished on or after January 1, 1992, the Secretary of Health and Human Services shall apply relative values determined in accordance with the methodology utilized for other physicians' services and may not apply the relative values developed for such services under the fee schedule established under section 1834(b) of such Act.

(d) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

(e) LIMITATION ON ADJUSTMENTS.—For radiologist services furnished during 1991 for which payment is made under section 1834(b) of the Social Security Act—

(1) a carrier may not make any adjustment, under section 1842(b)(3)(B) of such Act, in the payment amount for the service under section 1834(b) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

(2) no payment adjustment may be made under section 1842(b)(8) of such Act, and

(3) section 1842(b)(9) of such Act shall not apply.

(f) ESTABLISHMENT OF FLOOR.—Section 1834(b)(4), as amended by subsection (a), is further amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G) and inserting after subparagraph (D) the following:

"(E)(i) For purposes of determining payments for radiologist services furnished under this part during 1991 (and the adjusted historical payment basis (as defined in section 1848(a)(2)(D)) for such services, the Secretary shall establish a locality-specific conversion factor floor that is equal to 80 percent of the national weighted average of the conversion factors used under this subsection for radiologist services furnished during the 9-month period beginning April 1, 1990 (as determined by the Secretary using the best data available), adjusted in the manner described in subparagraph (D)(iii) for the locality.

"(ii) The conversion factor used under this subsection for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848) may not be less than the floor established under clause (i) for the locality.".

SEC. 6113. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

"(i)(I) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during 1990 after March 31 using the best available data.

"(II) For purposes of determining the national average conversion factor under subclause (I), the Secretary shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (iii)) for that locality.

"(ii) The national weighted average estimated under clause (i) shall be reduced by 4 percent.

"(iii) Subject to clause (iv), the conversion factor to be applied in a locality is the sum of—

"(I) the product of (aa) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (bb) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (aa) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii) and (bb) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause, 70 percent of the conversion factor shall be considered to be attributable to physician work.

"(iv) The conversion factor to be applied to a locality under this subparagraph shall not be reduced by more than 15 percent below the conversion factor applied in the locality for the period during 1990 beginning April 1.".

(b) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Subparagraphs (A) and (B) of section 1842(b)(13) (42 U.S.C. 1395u(b)(13)) are each amended by striking "1991" and inserting "1996".

(c) ESTABLISHMENT OF FLOOR.—Section 1842(q)(1), as amended by subsection (a), is further amended by adding at the end the following:

"(C)(i) For purposes of determining payments for physician anesthesia services furnished under this part during 1991 (and the adjusted historical payment basis (as defined in section 1848(a)(2)(D)) for such services, the Secretary shall establish a locality-specific conversion factor floor that is equal to 75 percent of the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during the 9-month period beginning April 1, 1990 (as determined by the Secretary using the best data available), adjusted in the manner described in subparagraph (B)(iii) for the locality.

"(ii) The conversion factor used under this subsection for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848) may not be less than the floor established under clause (i) for the locality.".

SEC. 6114. PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2), in determining the reasonable charge under part B of title XVIII of the Social Security Act for physician pathology services furnished on or after January 1, 1991, the prevailing charge for such service shall be 96 percent of the prevailing charge otherwise used under such part for services furnished during 1990 after March 31 (taking into account the amendments made by this Act).

(2) LIMITATION.—The prevailing charge for the technical and professional components of a physician pathology service furnished by a physician through an independent laboratory shall not be reduced pursuant to paragraph (1) to the extent that such reduction would reduce such prevailing charge below 115 percent of the prevailing charge for the professional component of such service when furnished by a hospital-based physician in the same locality. For purposes of the preceding sentence, an independent laboratory is a laboratory that is independent of a hospital and separate from the attending or consulting physicians' office.

(b) REPEAL OF PATHOLOGY FEE SCHEDULE.—

(1) Subsection (f) of section 1834 (42 U.S.C. 1395m) is repealed.

(2) Section 1833(a)(1)(J) (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(3) Section 4050 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(c) ADJUSTMENT.—(1) The Secretary of Health and Human Services shall provide for an appropriate adjustment to payments under section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) to reflect the technical component of furnishing physician pathology services through an independent laboratory. The adjustment shall apply to services furnished on or after January 1, 1992.

(2) For purposes of paragraph (1), the term "independent laboratory" means a laboratory that is independent of a hospital and separate from the attending or consulting physician's office.

SEC. 6115. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991 AND CUSTOMARY AND PREVAILING CHARGES DURING 1991.—

(1) IN GENERAL.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) 2.0 percent for primary care services (as defined in subsection (i)(4)).".

(2) LIMITING UPDATE IN CUSTOMARY CHARGES.—Section 1842(b)(4)(B) (42 U.S.C. 1395u(b)(4)(B)) is amended by adding at the end the following new clause:

"(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services, as defined in subsection (i)(4)) furnished during 1991, the customary charges shall be the same customary charges as were recognized under this section for the 9-month period beginning April 1, 1990. In a case in which subparagraph (F) applies (relating to new physicians), so as to limit the customary charges of a physician during 1990 to a percent of prevailing charges, the previous sentence shall not prevent such limit on customary charges under such subparagraph from increasing in 1991 to a higher percent of such prevailing charges.".

(c) VOLUME PERFORMANCE STANDARDS.—Section 1848(f)(2) (42 U.S.C. 1395w-4(f)(2)) is amended—

(1) in subparagraph (A) by striking "the performance standard factor (specified in subparagraph (B))" and inserting "1 percentage point for fiscal year 1991, 1¼ percentage points for fiscal year 1992, and 2 percentage points for each succeeding fiscal year", and

(2) by striking subparagraph (B) and inserting the following:

"(B) Notwithstanding subparagraph (A), the performance standard rate of increase for a category of physicians' services (as defined in paragraph (5)) for fiscal year 1991 shall be the sum of—

"(i) the Secretary's estimate of the rate of increase in expenditures for all physicians' services for portions of calendar years occurring in such fiscal year (determined without regard to the amendments made by the Omnibus Budget Reconciliation Act of 1990), and

"(ii) the Secretary's estimate of the percentage increase or decrease in expenditures for the category of services involved that will result from changes in law and regulations,

reduced by 2.0 percentage points.".

SEC. 6116. NEW PHYSICIANS.

(a) EXTENSION OF CUSTOMARY CHARGE LIMIT FOR 1991.—Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended by adding at the end the following: "For the second and third calendar years during which the first sentence of this subparagraph no longer applies, the Secretary shall set the customary charge at a level no higher than 90 and 95 percent, respectively, of the prevailing charge for the service.".

(b) APPLICATION UNDER FEE SCHEDULE.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF NEW PHYSICIANS.—In the case of physicians' services furnished by a physician before the end of the physician's first full calendar year of furnishing services for which payment may be made under this part, and during each of the 3 succeeding years, the fee schedule amount to be applied shall be 80 percent, 85 percent, 90 percent, and 95 percent, respectively, of the fee schedule amount applicable to physicians who are not subject to this paragraph. The preceding sentence shall not apply to primary care services or services furnished in a rural area (as defined in section 1886(d)(2)) that is designated under section 322(a)(1)(A) of the Public Health Service Act as a health manpower shortage area.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 6117. ASSISTANTS AT SURGERY.

(a) PHYSICIANS AS ASSISTANTS-AT-SURGERY.—Section 1848(i) (42 U.S.C. 1395w-4(i)) is amended by adding at the end the following:

"(2) ASSISTANTS-AT-SURGERY.—In the case of a surgical service furnished by a physician, if payment is made separately under this part for the services of a physician serving as an assistant-at-surgery, such payment shall not exceed 16 percent of the amount otherwise determined under this section (or for 1991 under section 1842(b)(3)) for the global surgical service involved.".

(b) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to services furnished on or after January 1, 1991.

SEC. 6118. ADVANCE DETERMINATIONS BY CARRIERS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following:

"(o)(1)(A) A carrier shall determine in advance whether an item or service is not allowable under section 1862(a)(1) if the item or service has been listed by the Secretary under paragraph (2).

"(B)(i) A carrier may in accordance with procedures established by the Secretary, determine in advance whether an item or service is not allowable under section 1862(a)(1) if—

"(I) the item or service is furnished or ordered by a physician described under paragraph (3),

"(II) the carrier notifies the physician as to the kinds of items or services that will be subject to advance determination, and

"(III) the carrier provides a general notice for entities likely to furnish the kinds of items or services described in the notification under subclause (II) that are ordered by the physician.

"(ii) A carrier may determine in advance whether an item is not allowable under section 1862(a)(1) if—

"(I) the item is furnished by an entity described under paragraph (4), and

"(II) the carrier notifies the entity as to the kinds of items that will be subject to advance determination.

"(C) The preceding subparagraphs do not apply—

"(i) to the kinds of items and services in an area that are under review by a utilization and quality control peer review organization, or

"(ii) in cases of a medical emergency or under such other circumstances as the Secretary may specify.

"(2) The Secretary may list specific expensive items or services that the Secretary finds should be subject to advance determination.

"(3) Items and services furnished or ordered by a particular physician are subject to paragraph (1)(B)(i) if—

"(A) a substantial number of items or services furnished or ordered by the physician have been found not to be allowable under section 1862(a)(1), or

"(B) a carrier has identified a pattern of overutilization resulting from the performance or ordering practices of the physician, has so informed the physician, and has afforded the physician an opportunity to respond.

"(4) Items furnished by a particular entity are subject to paragraph (1)(B)(ii) if—

"(A) a substantial number of items furnished by the entity have been found not to be allowable under section 1862(a)(1), or

"(B) a carrier has identified a pattern of overutilization resulting from the business practices of the entity, has so informed the entity, and has afforded the entity an opportunity to respond.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to items and services furnished on or after January 1, 1991.

SEC. 6118. LIMITATION ON BENEFICIARY LIABILITY.

Section 1848(g)(2)(A) (42 U.S.C. 1395w-4(g)(2)(A)) is amended by adding at the end thereof the following:

"In the case of evaluation and management services (as specified in section 1842(b)(17)(B)(ii)), the preceding sentence shall be applied by substituting '50 percent' for '25 percent'.".

SEC. 6120. STATEWIDE FEE SCHEDULE AREAS FOR PHYSICIANS' SERVICES.

(a) IN GENERAL.—Notwithstanding section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w-4(j)(2)), in the case of a State that meets the requirements specified in subsection (b) on or before April 1, 1991, the Secretary of Health and Human Services (Secretary) shall treat the State as a single fee schedule area for purposes of determining—

(1) the adjusted historical payment basis (as defined in section 1848(a)(2)(D) of such Act (42 U.S.C. 1395w-4(a)(2)(D))), and

(2) the fee schedule amount (as referred to in section 1848(a) (42 U.S.C. 1395w-4(a)) of such Act),

for physicians' services (as defined in section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3))) furnished on or after January 1, 1992.

(b) REQUIREMENTS.—The requirements specified in this subsection are that (on or before April 1, 1991) there are written expressions of support for treatment of the State as a single fee schedule area (on a budget-neutral basis) from—

(1) each member of the congressional delegation from the State, and

(2) organizations representing urban and rural physicians in the State.

(c) BUDGET NEUTRALITY.—Notwithstanding section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)), the Secretary shall provide for treatment of a State as a single fee schedule area (as described in subsection (a)) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in the State during 1992 are not greater or less than total payments for such services would have been but for such treatment.

(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842, or physicians in a State) of otherwise applicable administrative procedures for modifying the fee schedule area or areas in the State after implementation of subsection (a) with respect to the State.

SEC. 6121. TECHNICAL CORRECTIONS RELATING TO PHYSICIAN PAYMENT.

(a) COMPARABILITY AND INHERENT REASONABLENESS ADJUSTMENTS.—

(1) Section 1842(b)(3)(B) (42 U.S.C. 1395u(b)(3)(B)) is amended by inserting ", subject to section 1848(i)(2)," after "such charge will be reasonable and".

(2) Section 1848(i) is amended by adding at the end the following new paragraph:

"(3) NO COMPARABILITY ADJUSTMENT.—For physicians' services (including radiology and anesthesia services) for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply.".

(b) ALLOWING PERIODIC RECOMPUTATION OF GPCI.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) PERIODIC RECOMPUTATION OF INDICES.—The Secretary shall, from time to time, recompute the indices established under this paragraph based on the formula described in subparagraph (A) to reflect the most recent data available.".

(c) OVERVALUED PROCEDURES.—

(1) Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice expense component (percent), divided by 100, specified in Appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(B) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice expense component (percent), divided by 100";

(C) in subparagraph (C)(i), by striking "physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures listed (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20, 1989, prepared by the Physician Payment Review Commission";

(D) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(E) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(3) The amendments made by paragraphs (1) and (2) apply to services furnished after March 1990.

(d) MVPS AS MULTIPLICATIVE, NOT ADDITIVE.—Section 1848(f)(2)(A) (42 U.S.C. 1395w-4(f)(2)(A)) is amended—

(1) in the matter preceding clause (i) by striking "sum" and inserting "product";

(2) in clauses (i) through (iv)—

(A) by inserting "1.00 plus (" before "the Secretary's" each place it appears, and

(B) by inserting ") divided by 100" before the comma at the end of each clause; and

(3) in the matter following clause (iv), by striking "reduced" and inserting "minus 1.0 percentage point, multiplied by 100, and reduced".

(e) ELIMINATION OF RESTRICTION ON INCORPORATION OF TIME IN VISIT CODES.—Section 1848(c)(4) (42 U.S.C. 1395w-4(c)(4)) is amended by striking "only for services furnished on or after January 1, 1993".

(f) TREATMENT OF PRICE INCREASE IN DETERMINING PERFORMANCE STANDARD RATES OF INCREASE.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by inserting "including changes in law and regulations affecting the percentage increase described in clause (i)" after "law or regulations".

(g) MISCELLANEOUS FEE SCHEDULE CORRECTIONS.—

(1) CHANGES IN SECTION 1848.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(A) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(B) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking "subsection" and inserting "section";

(C) in subsection (d)(1)—

(i) in subparagraph (A)—

(I) by inserting "(or factors)" after "conversion factor" each place it appears in the subparagraph, and

(II) by striking "subparagraph (C)" and inserting "paragraph (3)"; and

(ii) in subparagraph (C)—

(I) in clause (i), by striking "(or factors)"; and

(II) in clause (ii), by inserting "the conversion factor (or factors) which will apply to physicians' services for the following year and" before "the update (or updates)", and by striking "the following" and inserting "such";

(D) in subsection (d)(2)(A)—

(i) in the matter preceding clause (i) by striking "services" the first place it appears

and inserting "services (as defined in subsection (f)(5)(A))";

(ii) in clause (i) by inserting "for the services involved" after "section 1842(b)(3)"; and

(iii) in clause (ii)—

(I) by striking "all physicians' services (as defined in subsection (f)(5)(A))" and inserting "the services involved"; and

(II) by striking "all such physicians'" and inserting "such"; and

(iv) in the last sentence by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(E) in subsection (d)(2)(E)(ii)(II), by inserting "payments for" after "under this part for";

(F) in subsection (d)(3)(B)—

(i) in clause (i)—

(I) by striking "update for" and inserting "update for a category of physicians' services for"; and

(II) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category";

(ii) in clause (ii)—

(I) by inserting "more than" after "decrease of"; and

(II) in subclause (I), by striking "more than";

(G) in subsection (f)(1)—

(i) in subparagraph (A), by striking "each category" and inserting "each category and group";

(ii) in subparagraph (C) by striking "all physicians' services and for"; and

(iii) in subparagraph (D)(i) by striking "calendar years" and inserting "portions of calendar years";

(H) in subsection (f)(2)(A)—

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

(I) by striking "each" and inserting "the"; and

(II) by striking "increase" and inserting "increase for a category of physicians' services";

(ii) in subsection (f)(2)(A)(i), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category";

(iii) in subsection (f)(2)(A) (ii) by striking "physicians' services" and inserting "services in such category"; and

(iv) in subsection (f)(2)(A)(iv) by striking "physicians' services (as defined in subsection (f)(5)(A)" and inserting "services in such category";

(I) in subsection (f)(4)—

(i) in subparagraph (A)—

(I) by striking "paragraph (B)" and inserting "subparagraph (B)"; and

(II) by striking "after" and all that follows through "1991"; and

(ii) in subparagraph (B) by striking "congress specifically approves the plan" and inserting "specifically approved by law".

(J) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively;

(K) in subsection (i)(1)(A) by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))"; and

(L) in subsection (j)(1), by striking ", and such other" and all that follows through the period and inserting "(as defined by the Secretary) and all other physicians' services.".

(2) MISCELLANEOUS.—

(A) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by striking "rate determined" after "prevailing charge".

(B) Effective January 1, 1991, section 1842(b)(3)(G) is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)".

(C) Section 1842(b)(12)(A)(ii)(II) is amended by striking ", as the case may be".

(D) Section 1833(a)(1)(H) is amended by striking ", as the case may be".

(E) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

(h) REPEAL OF REPORTS NO LONGER REQUIRED.—

(1) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(2) Subsection (c) of section 4048 of such Act is repealed.

(3) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

(4) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(5) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(i) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

(1) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

(2) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

SEC. 6122. BILLING FOR SERVICES OF SUBSTITUTE PHYSICIAN.

(a) UNDER MEDICARE.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(1) by striking "and" before "(C)", and

(2) by striking "involved." and inserting "involved, and (D) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.".

(b) UNDER MEDICAID.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32))—

(1) by striking "and" before "(B)",

(2) by inserting "and" at the end of subparagraph (B), and

(3) by adding at the end the following:

"(C) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 6123. STUDY OF PREPAYMENT MEDICAL REVIEW SCREENS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of the effect of the release of prepayment medical review screen parameters on physician billings for the services to which the parameters apply.

(b) LIMITATIONS.—The study shall be based upon the release of the screen parameters at a minimum of six carrier sites.

(c) REPORT.—The Secretary shall report the results of the study to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than October 1, 1992.

SEC. 6124. UTILIZATION SCREENS FOR PHYSICIAN VISITS IN REHABILITATION HOSPITALS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the utilization screen established pursuant to section 4085(h) of the Omnibus Budget Reconciliation Act of 1987 to apply to all physician visits to an inpatient of a rehabilitation hospital or unit. Such screen shall reflect a standard of physician care that is comparable to the standard of physician care recognized for inpatients of acute care hospitals and units, particularly with respect to the frequency of visits by an attending physician. The Secretary shall provide that the provisions of this section shall be implemented in a manner that provides that expenditures are not greater or lesser than they would have been but for the enactment of the provisions of this section.

SEC. 6125. STUDY OF HIGH VOLUME PAYMENT ADJUSTMENT.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of the feasibility and desirability of adjusting payments to individual physicians performing a high volume of a particular procedure in order to reflect the economies of scale afforded by volume.

(2) Taking into account the potential impact of such an adjustment on the medicare program costs and patient access to necessary services, the Commission shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on—

(A) the types of services or procedures for which such an adjustment would be appropriate,

(B) options for implementing such an adjustment,

(C) appropriate exceptions to such an adjustment, and

(D) appropriate safeguards to ensure access by medicare beneficiaries to necessary services.

(b) DEADLINES FOR REPORT.—The Secretary shall submit the report required by subsection (a) on or before July 1, 1992.

Subpart B—Payments for Other Items and Services

SEC. 6130. HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1990" and inserting "during the period beginning on October 1, 1989, and ending September 30, 1991 and by 10 percent for portions of cost reporting periods occurring during the period beginning on October 1, 1991 and ending September 30, 1995".

(b) REDUCTION IN REASONABLE COSTS OF HOSPITAL OUTPATIENT SERVICES.—Section

1861(v)(1)(S)(ii) of such Act (42 U.S.C. 1395x(v)(1)(S)(ii)) is amended—

(1) in subclause (II), by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii)), a rural primary care hospital (as defined in subsection (mm)(1)), or a hospital designated under section 1820(e) as an essential access community hospital.";

(2) in subclause (III)—

(A) by striking "subclause (I)" and inserting "subclauses (I) and (II)", and

(B) by striking "capital-related" and inserting "the";

(3) by redesignating subclauses (II) and (III) as subclauses (III) and (IV); and

(4) by inserting after subclause (I) the following new subclause:

"(II) The Secretary shall reduce the reasonable cost of outpatient hospital services (other than the capital-related costs of such services) otherwise determined pursuant to section 1833(a)(2)(B)(i)(I) by 5 percent for payments attributable to portions of cost reporting periods during the period beginning on October 1, 1990, and ending December 31, 1995.".

(c) EXTENSION OF ASC BLEND AMOUNTS FOR EYE AND EYE AND EAR SPECIALTY HOSPITALS.—The last sentence of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended by striking "in fiscal year 1989 or fiscal year 1990" and inserting "on or after October 1, 1988, and before September 30, 1993".

SEC. 6131. CLINICAL DIAGNOSTIC LABORATORY SERVICES.

(a) CAP ON ANNUAL FEE SCHEDULE INCREASES.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "any other provision of this subsection" and inserting "clause (i)";

(2) by striking "and" at the end of subclause (I);

(3) by striking the period at the end of subclause (II) and inserting ", and"; and

(4) by adding at the end the following new subclause:

"(III) the annual adjustment in the fee schedules under clause (i) for 1991 shall be a 2 percent increase.".

(b) REDUCTION IN NATIONAL CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) in clause (iii), by inserting "and before January 1, 1991," after "1989,";

(3) by striking the period at the end of clause (iii) and inserting ", and"; and

(4) by adding at the end the following new clause:

"(iv) after December 31, 1990, is equal to 90 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

SEC. 6132. DURABLE MEDICAL EQUIPMENT.

(a) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for 1992, and (II) 67 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 increased by the covered item increase for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year increased by the covered item increase for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, increased by the covered item increase for 1991, and decreased by the percentage by which the average of the purchase prices on claims submitted for all items described in paragraph (7) exceeds 110 percent of the average of the reasonable charges on claims paid for the items during the 6-month period ending with December 1986; or";

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

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33" and striking "subparagraph (A)(ii)(II)" and inserting "subparagraph (A)(ii)(III)"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

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

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67" and striking "subparagraph (B)(i)" and inserting "subparagraph (B)(ii)"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(14) COVERED ITEM INCREASE.—In this subsection, the term 'covered item increase' means, for 1991 and each subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.".

(5) CONFORMING AMENDMENT.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(b) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(1) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(2) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price;".

(c) FREEZE IN REASONABLE CHARGES FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990.

(d) OXYGEN RETESTING.—Section 1834(a)(5) (42 U.S.C. 1395m(a)(5)) is amended—

(1) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(2) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—In the case of a patient receiving home oxygen therapy services who, at the time such services are initiated, has an initial arterial blood gas value at or above a partial pressure of 55 or an arterial oxygen saturation at or above 89 percent (or such other values or saturations as the Secretary may specify), no payment may be made under this part for such services after the expiration of the 60-day period that begins on the date the patient first received such services unless the patient's attending physician certifies that, on the basis of a followup test of a patient's arterial blood gas value or arterial oxygen saturation conducted during the final 15 days of such 60-day period, there is a medical need for the patient to continue to receive such services.".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

(2) The amendments made by subsection (d) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

SEC. 6133. ORTHOTICS AND PROSTHETICS.

(a) MAINTAINING CURRENT PAYMENT METHODOLOGY.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(h) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item; or

"(ii) the amount recognized under paragraph (2) as the purchase price for the item.

"(C) EXCEPTION FOR CERTAIN PUBLIC HOME HEALTH AGENCIES.—Subparagraph (B)(i) shall not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(D) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for prosthetic devices, orthotics, and prosthetics under this part or under part A to a home health agency.

"(2) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1), the amount that is recognized under this paragraph as the purchase price for prosthetic devices, orthotics, and prosthetics is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price for each item equal to the average reasonable charge in the locality for the purchase of the item for the 12-month period ending with June 1987.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989 and 1990, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 6-month period ending with December 1987, or

"(II) in 1991, 1992 or 1993, equal to the local purchase price computed under this clause for the previous year increased by the applicable percentage increase for the year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined by the Secretary), the Secretary shall compute a regional purchase price—

"(i) for 1992 and for 1993, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the applicable percentage increase for the year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989, 1990, or 1991, is 100 percent of the local purchase price computed under subparagraph (A)(ii);

"(ii) in 1992, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1993, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1994 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DURABLE MEDICAL EQUIPMENT.—Subparagraphs (A) and (B) of paragraph (10), paragraph (11), and paragraph (12) of subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

"(4) DEFINITIONS.—In this subsection—

"(A) the term 'applicable percentage increase' means—

"(i) for 1991, 0 percent, and

"(ii) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;

"(B) the term 'prosthetic devices' has the meaning given such term in section 1861(s)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) the term 'orthotics and prosthetics' has the meaning given such term in section 1861(s)(9).".

(b) CONFORMING AMENDMENTS.—(1) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) in subparagraphs (A) and (B), by striking "subparagraph (G)" each place it appears and inserting "subparagraph (G) or subparagraph (I)";

(B) by striking "and" at the end of subparagraph (G);

(C) by striking the period at the end of subparagraph (H) and inserting "; and"; and

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

"(I) prosthetic devices and orthotics and prosthetics (described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ", and (L)" and inserting ", (L)"; and

(B) by striking "subparagraph and (N)" and inserting the following: "subparagraph, (M) with respect to prosthetic devices and orthotics and prosthetics (as defined in section 1834(h)(4)), the amounts paid shall be the amounts described in section 1834(h)(1), and (N)".

(3) Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2), in the matter before subparagraph (A), by striking "and (H)" and inserting "(H), and (I)";

(B) by striking "and" at the end of paragraph (5);

(C) by striking the period at the end of paragraph (6) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(7) in the case of prosthetic devices and orthotics and prosthetics (as described in section 1834(h)(4)), the amounts described in section 1834(h).".

(4) Section 1834(a) (42 U.S.C. 1395m(a)), is amended—

(A) in the heading, by striking ", Prosthetic Devices, Orthotics, and Prosthetics";

(B) in paragraph (2)(A), by striking "(13)(A)" and inserting "(13)";

(C) in paragraph (6) by inserting "or prosthetic devices, and orthotics and prosthetics described in subsection (h)" after "or (5)"; and

(D) in paragraph (13), by striking "means—" and all that follows and inserting the following: "means durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5)), but does not include intraocular lenses or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) fur-

nished by a home health agency under section 1861(m)(5).".

(c)(1) PROHIBITION ON REGULATIONS.—Notwithstanding any other provision of law, except as provided in paragraph (2), the Secretary of Health and Human Services (referred to in this subsection as the "Secretary") may not issue any regulation that changes the coverage of conventional eye wear furnished to individuals (enrolled under part B of title XVIII of the Social Security Act) following cataract surgery with an intraocular lens (IOL) implant.

(2) EXCEPTION.—Paragraph (1) does not apply to any regulation issued for the sole purpose of implementing sections 1861(s)(8) and 1862(a)(7) of the Social Security Act (as amended by paragraph (3)).

(3) CLARIFYING COVERAGE OF POST-CATARACT EYEGLASSES.—

(A) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after "devices" the following ", and including one pair of corrective eyeglasses provided with intraocular lenses following cataract surgery".

(B) Section 1862(a)(7) (42 U.S.C. 1395y(a)(7)) is amended by inserting after "eyeglasses" the first place it appears the following: "(other than eyeglasses described in section 1861(s)(8))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to prosthetic devices, orthotics, and prosthetics furnished on or after January 1, 1991.

Subpart C—Miscellaneous Provisions

SEC. 6140. COMMUNITY MENTAL HEALTH CENTERS.

(a) PARTIAL HOSPITALIZATION SERVICES.—(1) Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended—

(A) by striking "(3)" and inserting "(3)(A)";

(B) by striking "outpatients" and inserting "outpatients or by a community mental health center (as defined in subparagraph (B))."; and

(C) by adding at the end the following new subparagraph:

"(B) For purposes of subparagraph (A), the term 'community mental health center' means an entity—

"(i) providing the services described in section 1916(c)(4) of the Public Health Service Act; and

"(ii) meeting applicable licensing or certification requirements for community mental health centers in the State in which it is located.".

(2)(A) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)), as amended by section X124(b)(1), is amended—

(i) by striking "and" at the end of subparagraph (G);

(ii) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(I) partial hospitalization services provided by a community mental health center (as described in section 1861(ff)(2)(B)).".

(B) Section 1866(e) (42 U.S.C. 1395cc(e)) is amended by striking "include a clinic" and all that follows through the period and inserting the following: "include—

"(1) a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A) (or meets the requirements of such section through the operation of section 1861(g)), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B) (or meets the requirements of such section through the operation of section 1861(g)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services; and

"(2) a community mental health center (as defined in section 1861(ff)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(ff)(1)).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after April 1, 1991.

(b) COVERAGE OF MENTAL HEALTH PROFESSIONAL SERVICES.—(1) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by the Omnibus Budget Reconciliation Act 1989, is amended—

(A) by striking "and" at the end of subparagraph (M);

(B) by adding "and" at the end of subparagraph (N); and

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

"(O) qualified mental health professional services;".

(2) Section 1833 (42 U.S.C. 1395l) is amended—

(A) in subsection (a)(1) by inserting after subparagraph (L) the following new subparagraph: ", (M) with respect to qualified mental health professionals under section 1861(s)(2)(O), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph.".

(B) in subsection (p), by amending the first sentence to read as follows:

"(p) In case of—

"(1) certified nurse-midwife services;

"(2) qualified psychologists services;

"(3) clinical social worker services; and

"(4) qualified mental health professionals services,

for which payment may be made under this part only pursuant to subparagraphs (L), (M), (N), and (O) of section 1861(s)(2), respectively, payment may only be made under this part for such services on an assignment-related basis.".

(3) Section 1861 (42 U.S.C. 1395x), as amended by subsection (a), is amended by inserting after subsection (ii) the following new subsection:

"(jj)(1) The term 'qualified mental health professionals services' means such services and such services and supplies furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (2)), or a psychiatric nurse (as defined in paragraph (3)) on-site at a community mental health center (as defined in subsection (ff)), and such services that are necessarily furnished off-site (other than at an off-site office of such therapist, nurse, or counselor) as part of a treatment plan because of the inability of the individual furnished such services to travel to the center by reason of physical or mental impairment, because of institutionalization, or because of similar circumstances of the individual, which the marriage and family therapist, psychiatric nurse, or clinical mental health counselor is legally authorized to perform under State law (or the regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's services.

"(2) The term 'marriage and family therapist' means an individual who—

"(A) possesses a minimum of a masters degree in a field related to marriage and family therapy.

"(B) after obtaining such degree has performed at least 2 years of supervised clinical experience in the field of marriage and family therapy; and

"(C)(i) is licensed or certified by the State in which such services are performed as a marriage and family therapist, married, family and child counselor, or is licensed under a similar professional title; or

"(ii) in the case of an individual in a State which does not provide for licensing or certification, is eligible for clinical membership in a national professional association that recognized credentials for clinical membership for marriage and family therapists (as determined by the Secretary).

"(3) The term 'psychiatric nurse' means an individual who—

"(A) is licensed to practice professional nursing by the State in which such individual practices nursing;

"(B) performs such psychiatric nursing services as are authorized under the law of the State in which such individual practices psychiatric nursing; and

"(C)(i) possesses a minimum of a masters degree in nursing with a specialization in psychiatric and mental health nursing or a related field; or

"(ii) possesses a minimum of a masters degree in a related field from an accredited educational institution and is certified as a psychiatric nurse by a duly recognized national professional nurse organization, as determined by the Secretary, or is eligible to receive such certification.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after January 1, 1991.

SEC. 6141. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (c)(1), by striking "3 years" and inserting "5 years"; and

(2) in subsection (d)(1), by striking "third year" and inserting "fourth year".

SEC. 6142. CERTIFIED REGISTERED NURSE ANESTHETISTS.

Section 1833(l) (42 U.S.C. 1395l) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following:

"(B) In establishing the fee schedule under this paragraph the Secretary may utilize a system of time units, a system of base and time units, or any appropriate methodology.

"(C) The provisions of this subsection shall not apply to certain services furnished in certain hospitals in rural areas under the provisions of section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989.";

(2) by striking the second sentence of paragraph (2); and

(3) by striking paragraph (4) and inserting the following:

"(4)(A) Except as provided in subparagraphs (C) and (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is not medically directed—

"(i) the conversion factor shall be—

"(I) for services furnished in 1991, $15.50,

"(II) for services furnished in 1992, $15.75,

"(III) for services furnished in 1993, $16.00,

"(IV) for services furnished in 1994, $16.25,

"(V) for services furnished in 1995, $16.50,

"(VI) for services furnished in 1996, $16.75, and

"(VII) for services furnished in calendar years after 1995, the previous year's conversion factor increased by the update deter

mined under section 1848(d)(3) for physician anesthesia services for that year;

"(ii) the payment areas to be used shall be the fee schedule areas used under section 1848 (or, in the case of services furnished during 1991, the localities used under section 1842(b)) for purposes of computing payments for physicians' services that are anesthesia services;

"(iii) the geographic adjustment factors to be applied to the conversion factor under clause (i) for services in a fee schedule area or locality is—

"(I) in the case of services furnished in 1991, the geographic work index value and the geographic practice cost index value specified in section 1842(q)(1)(B) for physicians' services that are anesthesia services furnished in the area or locality, and

"(II) in the case of services furnished after 1991, the geographic work index value, the geographic practice cost index value, and the geographic malpractice index value used for determining payments for physicians' services that are anesthesia services under section 1848,

with 70 percent of the conversion factor treated as attributable to work and 30 percent as attributable to overhead for services furnished in 1991 (and the portions attributable to work, practice expenses, and malpractice expenses in 1992 and thereafter being the same as is applied under section 1848).

"(B)(i) Except as provided in clause (ii) and subparagraph (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is medically directed, the Secretary shall apply the same methodology specified in subparagraph (A).

"(ii) The conversion factor used under clause (i) shall be—

"(I) for services furnished in 1991, $10.50,

"(II) for services furnished in 1992, $10.75,

"(III) for services furnished in 1993, $11.00,

"(IV) for services furnished in 1994, $11.25,

"(V) for services furnished in 1995, $11.50,

"(VI) for services furnished in 1996, $11.70, and

"(VII) for services furnished in calendar years after 1996, the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.

"(C) Notwithstanding subclauses (I) through (V) of subparagraph (A)(i)—

"(i) in the case of a 1990 conversion factor that is greater than $16.50, the conversion factor for a calendar year after 1990 and before 1996 shall be the 1990 conversion factor reduced by the product of the last digit of the calendar year and one-fifth of the amount by which the 1990 conversion factor exceeds $16.50; and

"(ii) in the case of a 1990 conversion factor that is greater than $15.49 but less than $16.51, the conversion factor for a calendar year after 1990 and before 1996 shall be the greater of—

"(I) the 1990 conversion factor, or

"(II) the conversion factor specified in subparagraph (A)(i) for the year involved.

"(D) In no case may the conversion factor used to determine payment for services in a fee schedule area or locality under this subsection, as adjusted by the adjustment factors specified in subparagraphs (A)(iii), exceed the conversion factor used to determine the amount paid for physicians' services that are anesthesia services in the area or locality.".

SEC. 6143. FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) COVERAGE.—Section 1861(s)(2)(E) (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(b) SERVICES DEFINED.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in the heading, by adding at the end the following: "AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES",

(2) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph and paragraph (4) as paragraph (5) and (6), respectively, and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means services of the type described in subparagraphs (A) through (C) of paragraph (1) when furnished to an individual (who is not an inpatient) and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means an entity which—

"(A)(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act and which requests the Secretary to reimburse it as a Federally qualified health center, or

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and (II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant; or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1990.".

(c) PAYMENTS.—

(1) IN GENERAL.—Section 1832(a)(2)(D) (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(2) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(B) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),".

(3) PRRB REVIEW.—Section 1878 (42 U.S.C. 1395oo) is amended by adding at the end the following new subsection:

"(j) In this section, the term 'provider of services' includes a rural health clinic and a Federally qualified health center.".

(d) CONFORMING AMENDMENTS.—Section 1861 (42 U.S.C. 1395x) is further amended—

(1) in subsection (s)(2)(H)(i) and (s)(2)(K), by striking "subsection (aa)(3)" and "subsection (aa)(4)" each place either appears inserting "subsection (aa)(5)" and "subsection (aa)(6)", respectively, and

(2) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(e) TEMPORARY WAIVER OF RHC STAFFING REQUIREMENTS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall waive for a 1-year period the requirements of paragraph (2) that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates for any facility that requests such waiver if the facility demonstrates that the facility has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary may not grant such a waiver under subparagraph (A) to a facility if the request for the waiver is made less than 6 months after the date of the expiration of any previous such waiver for the facility.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(f) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) In the case of a Federally qualified health center that has elected, as of January 1, 1990, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by subsection (c)(1) shall only apply on and after such date (not earlier than January 1, 1991) as the center may elect.

SEC. 6144. SEPARATE PAYMENT UNDER PART B FOR SERVICES OF CERTAIN HEALTH PROFESSIONALS.

(a) SERVICES OF CERTAIN HEALTH PROFESSIONALS NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b) (42 U.S.C. 1395x(b)) is amended—

(1) in paragraph (3), by striking "(including clinical psychologist (as defined by the Secretary))", and

(2) in paragraph (4), by striking everything after "intern" and inserting ", services described by subsection (s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist; and".

(b) SERVICES OF CERTAIN HEALTH PROFESSIONALS NOT TO BE BILLED THROUGH PROVIDERS OF SERVICES.—Section 1832(a)(2)(B)(iii) (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended to read as follows:

"(iii) services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist;".

(c) CONFORMING AMENDMENTS.—

(1) Section 1862(a)(14) (42 U.S.C. 1395y) is amended—

(A) by striking "or are services of a certified registered nurse anesthetist", and

(B) by inserting after "this paragraph)" a comma and the following: "services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist,".

(2) The matter in section 1866(a)(1)(H) (42 U.S.C. 1395x(a)(1)(H)) preceding clause (i) is amended by inserting after "and other than" the following: "services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and".

(d) EFFECTIVE DATE.—The amendments made by the preceding subsections apply to services furnished on or after January 1, 1991.

SEC. 6145. NEW TECHNOLOGY IOL'S.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this sec-

tion referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriate reimbursement under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(b) EVALUATION BASED UPON MEDICAL BENEFITS.—In determining whether to provide an adjustment of payment with respect to a particular lens under subsection (a), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(c) NOTICE AND COMMENTS.—

(1) NOTICE.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) a list of the requests that the Secretary has received for review under this section.

(2) COMMENT.—The Secretary shall provide for a 60-day comment period on the notice under paragraph (1). The Secretary shall publish a notice of his determination with respect to intraocular lenses listed in the notice within 120 days after the close of the comment period.

SEC. 6146. RURAL NURSING INCENTIVES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

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

(2) by adding "and" at the end of subparagraph (M); and

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

"(P) nurse practitioner or clinical nurse specialist services;".

(b) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

"NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

"(kk)(1) The term 'nurse practitioner or clinical nurse specialist services' means services provided by a nurse practitioner or clinical nurse specialist (as defined in paragraph (2)) in a rural area (as defined in paragraph (3)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed.

"(2) The term 'nurse practitioner or clinical nurse specialist' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the nurse practitioner or clinical nurse specialist services are performed; and

"(B)(i) holds a master's degree in nursing or a related field from an accredited educational institution, or

"(ii) is certified as a nurse practitioner or clinical nurse specialist by a duly recognized professional nurses association.

"(3) The term 'rural area' means any area outside a metropolitan statistical area (as defined by the Office of Management and Budget).".

(c) DIRECT PAYMENT FOR SERVICES.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii); and

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

"(iv) nurse practitioner or clinical nurse specialist services;".

(d) AMOUNT OF PAYMENT FOR SERVICES.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

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

(2) by adding "and" at the end of subparagraph (N); and

(3) by adding at the end thereof the following new subparagraph: "(O) in the case of nurse practitioner or clinical specialist services under section 1861(s)(2)(P), the amounts paid shall be an amount equal to 100 percent of 75 percent of the prevailing charge (or, in the case of services furnished after 1991, the amount determined under section 1848(a)) in area for the service for participating physicians and such payment shall be made only on an assignment-related basis;".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1991.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SEC. 6150. END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT RATES THROUGH 1992.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6203(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) by striking "and before October 1, 1990" and inserting "and before October 1, 1993"; and

(2) by striking "equal to" and inserting "not less than".

(b) PROPAC STUDY ON ESRD COMPOSITE RATES.—

(1) IN GENERAL.—

(A) STUDY.—The Prospective Payment Assessment Commission (in this subsection referred to as the "Commission") shall conduct a study to determine the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients provided under title XVIII of the Social Security Act.

(B) RECOMMENDATIONS.—Based on information collected for the study described in subparagraph (A), the Commission shall make recommendations to Congress regarding the method or methods and the levels at which the payments made for the facility component of dialysis services by providers of service and renal dialysis facilities under title XVIII of the Social Security Act should be established for dialysis services furnished during fiscal year 1993 and the methodology to be used to update such payments for subsequent fiscal years. In making recommendations concerning the appropriate methodology the Commission shall consider—

(i) hemodialysis and other modalities of treatment,

(ii) the appropriate services to be included in such payments,

(iii) the adjustment factors to be incorporated including facility characteristics, such as hospital versus free-standing facilities, urban versus rural, size and mix of services,

(iv) adjustments for labor and nonlabor costs,

(v) comparative profit margins for all types of renal dialysis providers of service and renal dialysis facilities,

(vi) adjustments for patient complexity, such as age, diagnosis, case mix, and pediatric services, and

(vii) efficient costs related to high quality of care and positive outcomes for all treatment modalities.

(2) REPORT.—Not later than June 1, 1992, the Commission shall submit a report to the Committee on Finance of the Senate, and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the study conducted under paragraph (1)(A) and shall include in the report the recommendations described in paragraph (1)(B), taking into account the factors described in paragraph (1)(B).

(3) ANNUAL REPORT.—The Commission, not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1993) shall report its recommendations to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on an appropriate change factor which should be used for updating payments for services rendered in that fiscal year. The Commission in making such report to Congress shall consider conclusions and recommendations available from the Institute of Medicine.

(c) SELF-ADMINISTERED ERYTHROPOIETIN.—(1) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (O);

(B) by adding "and" at the end of subparagraph (P); and

(C) by adding at the end the following new subparagraph:

"(Q) erythropoietin for home dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug, and items related to the administration of such drug;".

(2)(A) Section 1881(b)(11) (42 U.S.C. 1395rr(b)) is amended—

(i) by striking "(11)" and inserting "(11)(A)", and

(ii) by adding at the end the following new subparagraph:

"(B) Erythropoietin (including self-administered erythropoietin (as described in section 1861(s)(2)(Q)), when provided to a patient determined to have end stage renal disease, shall not be included as a dialysis service for purposes of payment under any prospective payment amount or comprehensive fee established under this section, and payment for such item shall be made separately—

"(i) in the case of erythropoietin provided by a physician, in accordance with section 1833; and

"(ii) in the case of erythropoietin provided by a provider of services or a renal dialysis facility, in an amount specified by the Secretary.".

(B) Section 1881(b) (42 U.S.C. 1395rr(b)) is further amended—

(i) in paragraph (1)—

(I) by striking "and (B)" and inserting "(B), and

(II) by striking "equipment." and inserting "equipment, and (C) payments to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for self-administered erythropoietin as described in section 1861(s)(2)(Q) if the Secretary finds that the patient receiving such drug from such a supplier can safely and effectively administer the drug (in accordance with the applicable methods and standards established by the Secretary pursuant to such section).."; and

(ii) in paragraph (2)(A), by striking "(2)(A)" and inserting "(2)(A)(i)"; and

(iii) in paragraph (11)(B), as added by subparagraph (A)—

(I) by striking "(B)" and inserting "(B)(i)",

(II) by redesignating clauses (i) and (ii) as subclauses (I) and (II), and

(III) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i), the amount payable to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for erythropoietin shall be determined in the same manner as the amount payable to a renal dialysis facility for such item.".

(d) EFFECTIVE DATE.—The amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 1991.

SEC. 6151. STAFF-ASSISTED HOME DIALYSIS.

(a) IN GENERAL.—Section 1861(s)(2)(F) (42 U.S.C. 1395x(s)(2)(F)) is amended by striking "self-care" and all that follows through "and institutional" and inserting "home dialysis support services, home hemodialysis staff assistance, and institutional".

(b) PAYMENT FOR COSTS OF ASSISTANT SERVICES.—

(1) IN GENERAL.—Section 1881(b) of such Act (42 U.S.C. 1395rr(b)(1)) is amended—

(A) in paragraph (1)—

(i) by striking "self-care home dialysis support services" and inserting "home dialysis support services"; and

(ii) by striking "and routine" and inserting "services of a staff assistant provided to an individual described in subsection (h)(3) which are furnished by a provider of services or facility, and routine";

(B) in paragraph (4), by amending subparagraph (A) to read as follows: "Pursuant to agreements with approved providers of services and renal dialysis facilities, the Secretary may make payments to such providers and facilities for the cost of home dialysis supplies and equipment and home dialysis support services furnished to patients whose home dialysis is under the direct supervision of such provider or facility, and home hemodialysis staff assistance furnished to patients described in subsection (h)(3) whose home hemodialysis is under the direct supervision of a provider of services or a renal dialysis facility on the basis of the method established under paragraph (7).."; and

(C) in paragraph (5)—

(i) by inserting "(A)" after "paragraph (4)"; and

(ii) by amending clause (iv) to read as follows:

"(iv) the services of a trained home hemodialysis staff assistant (as described in subsection (h)(2)) to individuals described in subsection (h)(3);".

(2) ESTABLISHING PAYMENT RATE.—Section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) is amended—

(A) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(B) by inserting "(A)" after the paragraph designation; and

(C) by adding at the end the following new subparagraph:

"(B)(i) The Secretary shall provide by regulation for a method of determining prospectively the amount of payment to be made for home hemodialysis staff assistance furnished by a provider of services or a renal dialysis facility with respect to a maintenance dialysis episode.

"(ii) The amount of payment determined under clause (i) shall be in addition to the amount determined under subparagraph (A) on the basis of a rate based on a single composite weighted formula (in this subparagraph referred to as the 'composite rate').

"(iii) The amount of payment determined under clause (i) shall be the product of the rate determined under clause (iv) with respect to a provider of services or a renal dialysis facility and the factor by which the labor portion of the rate determined under subparagraph (A) is adjusted for area differences in wage levels.

"(iv) The rate determined under this clause, with respect to a provider of services or renal dialysis facility, shall equal the amount obtained by subtracting—

"(I) 2/2 of the labor portion of the composite rate applicable to the provider or facility (as adjusted to reflect area differences in wage levels), from

"(II) the product of the national median hourly wage for a home hemodialysis staff assistant and the national median time expended in the provision of home hemodialysis staff assistant services (taking into account time expended in travel and predialysis patient care).

"(v) For purposes of clause (iv)(II)—

"(I) the national median hourly wage for a home hemodialysis staff assistant and the national median average time expended for home hemodialysis staff assistant services shall be determined annually on the basis of the most recent data available, and

"(II) the national median hourly wage for a home hemodialysis staff assistant shall be the sum of 65 percent of the national median hourly wage for a licensed practical nurse and 35 percent of the national median hourly wage for a registered nurse.".

(c) DEFINITION AND CRITERIA RELATED TO STAFF ASSISTED HOME HEMODIALYSIS SERVICES.—Section 1881 of such Act (42 U.S.C. 1395rr) is further amended by adding at the end the following new subsection:

"(h)(1) For purposes of this title, the term 'home hemodialysis staff assistance' means the following services provided by a home hemodialysis staff assistant (as described in paragraph (2)) through a provider of services or a renal dialysis facility to an eligible patient (as described in paragraph (3)):

"(A) Technical assistance with the operation of a hemodialysis machine in the patient's home and with such patient's care during in-home hemodialysis.

"(B) Administration of medications within the patient's home to maintain the patency of the extra corporeal circuit.

"(2) For purposes of this title, the term 'home hemodialysis staff assistant' means those individuals who—

"(A) have met minimum qualifications as specified by the Secretary; and

"(B) meet the minimum qualifications as specified under the law of the State in which the home hemodialysis staff assistant is providing services.

"(3) For purposes of this title, an 'eligible patient' means those individuals who—

"(A)(i) a physician certifies as being confined to a bed or wheelchair and who cannot transfer themselves from a bed to a chair, or

"(ii) have serious medical conditions (as specified by the Secretary) which would be exacerbated by traveling to and from a dialysis facility; and

"(B) are eligible for ambulance transportation to receive routine maintenance dialysis treatments, and, based on the medical condition of the patient, there is reasonable expectation that such transportation will be used by the patient for a period of at least 6 consecutive months, such that the cost of ambulance transportation can reasonably be expected to meet or exceed the cost of home hemodialysis staff assistance as provided under subsection (b)(4); and

"(C) have no spouse, relative, or other caregiver who either lives with the individual or comes to such individual's home periodically and who is willing and able to assist the individual with home hemodialysis; and

"(D) the Secretary certifies annually as meeting the requirements of this paragraph.

"(4) A resident of a skilled nursing facility, under this title, shall not for purposes of this subsection be considered an 'eligible patient' as defined in paragraph (3).".

(d) CONFORMING AMENDMENT.—Section 1881(b)(9) of such Act (42 U.S.C. 1395rr(b)(9)) is amended by striking "self-care".

(e) EFFECTIVE DATE.—

(1) The amendments made by this section shall become effective (if at all) in accordance with the provisions of paragraph (2).

(2)(A)(i) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project to begin January 1, 1991, to test the cost-effectiveness of furnishing home hemodialysis staff assistance (as defined in section 1881(h)(1) of the Social Security Act) to eligible patients (as defined in section 1881(h)(3) of such Act) in accordance with the amendments made by this section.

(ii) Any individual who, on the date of the enactment of this Act, is receiving staff assistance under the experimental authority provided under section 1881(f)(2) of the Social Security Act shall be deemed to be an eligible patient for purposes of clause (i).

(B) The number of eligible patients participating in the demonstration project established under subparagraph (A) may not exceed 550 during any month, except that one eligible patient may be admitted to the demonstration for each individual ceasing to participate in the project in any month.

(C) The Secretary may implement the demonstration project established under subparagraph (A) on a nationwide basis or at specific sites.

(D) The demonstration project established under subparagraph (A) shall continue through December 31, 1993 (or the date that occurs the same number of days after such date as elapsed between January 1, 1991 and the first day on which services were furnished under the project).

(E)(i) The Secretary shall transmit a report of preliminary findings under the demonstration project to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than January 15, 1993.

(ii) The Secretary shall transmit a final report of findings under the demonstration project to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1993.

(iii) If the Secretary determines that it is not cost-effective to furnish home dialysis staff assistance, the demonstration project under this subsection shall terminate as of December 31, 1993.

(F) Any individual participating in the demonstration project established under subparagraph (A) as of December 31, 1993 (or the later date described in subparagraph (D)) shall continue to be eligible for home hemodialysis staff assistance after such date on the same terms and conditions as applied under the demonstration project.

SEC. 6152. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF TRANSFER OF DATA.—

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) TEMPORARY EXTENSION OF ESRD PERIOD.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended to read as follows:

"(C) INDIVIDUALS WITH END-STAGE RENAL DISEASE.—

"(i) A group health plan (as defined in subparagraph (A)(v)) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period that begins with the earlier of—

"(I) the first month in which the individual becomes entitled to benefits under part A under the provisions of section 226A, or

"(II) in the case of an individual who receives a kidney transplant, the first month in which the individual would be eligible for benefits under part A (if the individual had filed an application for such benefits) under the provisions of section 226A(b)(1)(B).

"(ii) A group health plan (as so defined) may not differentiate in the benefits it provides between individuals having end-stage renal disease and other individuals covered by such plan on the basis of the existence of end-stage renal disease, the need for renal dialysis, or in any other manner. The preceding sentence shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A during a period occurring before or after the 12-month period described in clause (i).

"(iii) Effective for items and services furnished on or after February 1, 1991, and before January 1, 1996 (with respect to periods beginning on or after February 1, 1990), clauses (i) and (ii) shall be applied by substituting '24-month' for '12-month' each place it appears.".

(2) STUDY.—(A) The Comptroller General shall study and report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the impact of the application of clause (iii) of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) on individuals entitled to benefits under title XVIII of such Act by reason of section 226A of such Act. The report shall include information relating to—

(i) the number (and geographic distribution) of such individuals for whom medicare is secondary,

(ii) the amount of savings to the medicare program achieved annually by reason of the application of such clause,

(iii) the effect on access to employment, and employment-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of cost-sharing requirements under medicare after such employment-based insurance becomes secondary),

(iv) the effect on the amount paid for each dialysis treatment under employment-based health insurance, and

(v) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which medicare is secondary.

(B) The Comptroller General shall submit a preliminary report under this subsection not later than January 1, 1993, and a final report not later than January 1, 1995.

(d) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2)(A) The amendment made by subsection (a)(2)(B) shall apply to requests made on or after the date of the enactment of this Act.

(B) Section 1862(b)(1)(C)(i)(I) of the Social Security Act, as amended by subsection (c), and section 1862(b)(1)(C)(iii) of such Act, as added by such subsection, shall apply to periods beginning on or after February 1, 1990.

(C) The amendments made by subsection (d) shall be effective—

(i) on January 1, 1992, with respect to individuals described in clause (ii) of subparagraph (A) of the paragraph added by paragraph (d)(1) who are covered by group health plans contributed to or sponsored by employers with 1,000 or more employees and with respect to all individuals described in clause (ii) of subparagraph (A) of such paragraph;

(ii) on January 1, 1993, with respect to individuals covered by group health plans contributed to or sponsored by employers with 100 or more employees; and

(iii) on January 1, 1994, with respect to all other individuals.

SEC. 6153. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REQUIREMENTS WITH RESPECT TO ACTUARIAL EQUIVALENCE OF AAPCC.—(1) Not later than January 1, 1992, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit a proposal to Congress that provides for a modified payment method for organizations with a risk contract under section 1876(g) of the Social Security Act that is more accurate than the current payment methodology in predicting the actual service utilization and annual medical expenditures of the beneficiary population enrolled in a specific organization.

(2) The proposal shall include—

(A)(i) recommendations on modifying the current adjusted average per capita cost formula, by adding predictors of medical utilization such as health status adjustors or prior utilization measures; or

(ii) recommendations for a new payment methodology as an alternative to the adjusted average per capita cost;

(B) data to support any recommended changes in payment methodology for organizations with risk contracts under section 1876(g) of the Social Security Act; and

(C) data demonstrating that any proposed or revised payment methodology under this section is effective in explaining at least 15 percent of the variation in health care utilization and costs (as certified by the American Academy of Actuaries) among individuals enrolled in such organizations.

(3) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule providing for the implementation of the payment methodology specified in the proposal submitted pursuant to paragraph (1).

(4) Not later than May 1, 1992, the Comptroller General shall review the proposal and recommendations made pursuant to paragraphs (1) and (2), and shall report to Congress on appropriate modifications in such payment methodology.

(5) Taking into account the recommendations made pursuant to paragraph (2), on or after August 1, 1992, the Secretary shall issue a final rule implementing a payment methodology that meets the requirements of paragraph (1), effective for contract years beginning on or after January 1, 1993.

(b) WAIVER OF 50-50 REQUIREMENT WITH RESPECT TO CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may waive the requirements of section 1876(f) of the Social Security Act with respect to an organization with a risk contract (as described in section 1876(g) of such Act) that—

(A)(i) has demonstrated profitability for the 3 most recent consecutive contract years; or

(ii) if such organization is a new organization the parent company of such organization demonstrates to the satisfaction of the Secretary that the solvency of such new organization is assured;

(B)(i) has had a risk contract in effect under section 1876(g) of the Social Security Act for at least 3 years; or

(ii) if such organization is a new organization, the parent company of such organization has at least 5 years of experience in operating a health maintenance organization and two years experience in operating an organization with a risk contract under section 1876(g) of the Social Security Act in two or more States;

(C)(i) has a total enrollment of at least 100,000 enrollees (including but not limited to individuals enrolled under title XVIII of such Act); or

(ii) in the case of a new organization, the organization and any affiliated organizations have at least 100,000 of such enrollees;

(D)(i) has no significant quality problems (as determined by the Secretary) identified by internal or external quality review; and

(ii) the organization agrees to an annual quality review conducted by the Secretary;

(E) has agreed to fund an annual membership satisfaction survey to be conducted by an independent survey firm that—

(i) measures satisfaction of enrollees of such organization drawn from 3 population groups including—

(I) the enrolled medicare membership;

(II) medicare members who have been discharged from a hospital within a pervious 30-day period; and

(III) former medicare members; and

(ii) reports such surveys to the Secretary; and

(F) has agreed to, within the amount charged the beneficiary under section 1876(e), provide special services that are uniquely targeted towards elderly individuals receiving benefits under title XVIII of such Act and which are not routinely provided to such individuals and which include—

(i) a multi-disciplinary geriatric assessment (performed by a social worker, physician and a nurse, each who have either a specialty in geriatrics or have completed a geriatric training program) that provides for each new beneficiary enrolled after the date the waiver is approved—

(I) a plan to manage specific medical conditions;

(II) objective criteria that measure—

(aa) impairment of activities of daily living (including toileting, eating, mobility, bathing, continence, and dressing); and

(bb) cognitive impairment; and

(ii) with respect to individuals who are determined to be dependent in 3 or more areas related to activities of daily living for at least 3 months (as described in clause (i)(II)) home and community based long-term care services (nonmedical services provided to prevent or delay an individual entitled to benefits under title XVIII of the Social Security Act from entering a nursing facility) that provide at least one of the following:

(I) Homemaker or chore services.

(II) Personal care services.

(III) Adult day health care.

(IV) Meals on wheels.

(V) Respite care.

(VI) Lifeline telephone assistance.

(VII) Transportation.

(VIII) Geriatric case management.

(IX) Rehabilitation and home adaptation.
(X) Special health education programs targeted to the elderly.
(XI) Geriatric mental health services.

(2) DURATION OF WAIVER.—A waiver under this subsection shall be approved for a 3-year period. The additional benefits (described in paragraph (1)) shall be made available to eligible enrollees of an organization (described in paragraph (1)) for a period of at least 3 years.

(3) REVIEW AND WITHDRAWAL BY THE SECRETARY.—The Secretary shall review an organization's compliance with the terms of the waiver described in this subsection on an annual basis. The Secretary may withdraw any waiver for an organization which the Secretary finds fails to comply with the provisions of this subsection.

(4) EVALUATION AND REPORT.—The Secretary shall evaluate the cost and impact of any waiver granted under this subsection, including any impact on the financial viability of an organization granted such a waiver, and shall report to Congress, no later than 2 years after the date of enactment of this section on whether any changes should be made to the enrollment requirement described in section 1876(f) of the Social Security Act.

(c) TEMPORARY WAIVER FOR RELATED ENTITIES.—

(1) For purposes of section 1876(f), the Secretary may combine the enrolled membership of an organization that meets the requirements described in paragraph (2) with the enrollment of an HMO or CMP that has a contract under section 1876 of the Social Security Act for 2 years.

(2) An organization described in this paragraph must—

(A) be related to the organization contracting under this section through common ownership and control;

(B) provide services in the same geographic area through essentially the same physicians and providers as the contracting organization;

(C) utilize a functionally integrated quality assurance program; and

(D) use common grievance procedures, claims, processing systems, common management, and administrative services.

(d) PHYSICIAN INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(8)(A) Each contract with an eligible organization under this section shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B) unless the following requirements are met:

"(i) No specific payment is knowingly made under the plan directly to a physician or physician group as an inducement to withhold or limit medically necessary services provided with respect to an identifiable individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection (or a risk corridor) for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians in the group or under the plan that share the risk and the number of individuals enrolled with the organization who receive services from the physician or the physician group,

"(II) conducts periodic surveys of individuals enrolled or previously enrolled with the organization to determine the degree to which such individuals have access to services provided by the organization and are satisfied with the quality of such services, and

"(III) has an internal quality assurance program that addresses issues of under utilization.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) In this paragraph, the term 'physician incentive plan' means any contractual compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.".

(2) PENALTIES.—Section 1876(i)(6)(A)(vi) (42 U.S.C. 1395mm(i)(6)(A)(vi)) is amended by striking "(g)(6)(A);" and inserting "(g)(6)(A) or paragraph (8);".

(3) REPEAL OF PROHIBITION.—Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization" and all that follows through "1903(m)",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B), and

(E) by striking "or organization".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to contract years beginning on or after January 1, 1992, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act.

(e) WAIVER OF CERTAIN HMO REQUIREMENTS.—

(1) IN GENERAL.—With respect to Managed Care, Inc., an affiliate of CHP, the medical group affiliated with Long Island Jewish Medical Center, such group may include the enrollees of a State licensed health maintenance organization for whom CHP has agreed to assume full financial risk for provision of hospital and physician services for purposes of meeting the risk contracting requirements that at least one-half of the enrolled membership of an eligible organization consists of individuals who are not entitled to benefits under titles XVIII or XIX of the Social Security Act (as described in section 1876(f)(1) of the Social Security Act) and the requirement that such organizations have an enrollment of at least 5,000 members (as described in section 1876(g)(1) of such Act). The members of the health maintenance organization with whom Managed Care, Inc., has an agreement may not be considered for purposes of meeting any such requirements with respect to any other risk contract described in section 1876 of the Social Security Act.

(2) DURATION.—The waiver granted under this subsection shall expire 2 years after the date of enactment of this Act.

(f) APPLICATION OF NATIONAL COVERAGE DECISIONS ON RISK CONTRACTS.—

(1) IN GENERAL.—Section 1876(c)(2) (42 U.S.C. 1395mm(c)(2)) is amended—

(A) by redesignating clauses (i) and (ii) and subparagraphs (A) and (B) as subclauses (I) and (II) and clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) If there is a national coverage determination made in the period beginning on the date of an announcement under subsection (a)(1)(A) and ending on the date of the next announcement under such subsection that is projected to result in a significant change in the costs to the organization or providing the benefits that are the subject of such national coverage determination (and that has not been taken into account in determining the per capita rate of payment specified in the announcement)—

"(i) such determination shall not apply to risk contracts under this section until the first contract year that begins after the end of such period; and

"(ii) if such coverage determination provides for coverage of additional benefits or under additional circumstances, subsection (a)(6) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances during the period specified in clause (i), unless otherwise required by law.".

(2) CONFORMING AMENDMENT.—Section 1876(a)(6) of such Act is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to national coverage determinations made on or after September 7, 1990.

(g) PERMITTING CONTINUOUS ENROLLMENT OF CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Section 1876(a)(1)(E) (42 U.S.C. 1395mm(a)(1)(E)) is amended—

(A) by striking "(E)" and inserting "(E)(i)"; and

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

"(ii) The Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls (and signs a written statement of enrollees' rights provided under subsection (c)(3)(E)) with an eligible organization (which has a risk contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to individuals enrolling with an eligible organization (which has a risk contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) on or after January 1, 1991.

(h) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "September 30, 1992" and inserting "December 31, 1995".

(i) STUDY OF CHIROPRACTIC SERVICES.—

(1) The Secretary shall conduct a study of the extent to which health maintenance organizations with contracts under section 1876 of the Social Security Act (42 U.S.C. 1395mm) make available to enrollees entitled to benefits under title XVIII of such Act chiropractic services that are covered under such title.

(2) The study shall examine the arrangements under which such services are made available and the types of practitioners furnishing such services to such enrollees.

(3) The study shall be based on contracts entered into or renewed on or after January 1, 1991, and before January 1, 1993.

(4) The Secretary shall issue a final report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the study not

later than January 1, 1993. The report shall include recommendations with respect to any legislative and regulatory changes that the Secretary determines are necessary to ensure access to such services.

SEC. 6154. PEER REVIEW ORGANIZATIONS.

(a) STANDARDS FOR IMPOSING SANCTIONS.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) by inserting "and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan," after "concerned,", and

(2) by inserting after the second sentence the following: "In determining whether a practitioner or person has demonstrated an unwillingness or lack of ability substantially to comply with such obligations, the Secretary shall consider the practitioner's or person's unwillingness or lack of ability, during the period before the organization submits its report and recommendations, to enter into and successfully complete a corrective action plan.".

(b) CLARIFICATION OF LIMITATION ON LIABILITY.—Section 1157(b) (42 U.S.C. 1320c-6(b)) is amended—

(1) by inserting "organization having a contract with the Secretary under this part and no" after "No",

(2) by striking "by him", and

(3) by striking "he has exercised due care" and inserting "due care was exercised in the performance of such duty, function, or activity".

(c) INVOLVEMENT OF OPTOMETRISTS AND PODIATRISTS.—Section 1154 (42 U.S.C. 1320c-3) is amended—

(1) in subsection (a)(7)(A)(i) by inserting ", optometry, and podiatric medicine" after "dentistry", and

(2) in subsection (c) by striking "or dentistry" each place it appears and inserting ", dentistry, optometry, or podiatric medicine".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to initial determinations made under section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) on or after January 1, 1991.

(2) The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 6155. IMPROVEMENTS IN AND SIMPLIFICATION OF MEDIGAP POLICIES.

(a) SIMPLIFICATION OF MEDIGAP POLICIES.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (o).", and

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

"(o) The requirements of this subsection are as follows:

"(1) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with standards established pursuant to subsection (p)(2).

"(2) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits identified pursuant to subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(3) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes the benefits (including any optional benefits) under the policy, the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect (or, for a policy that has not been in effect for 3 years, the average ratio of benefits provided to premiums collected that is expected during the 3rd year of the policy) and which allows a direct comparison of benefits and prices among policies.

"(4) In the case of a benefit for which the premium attributable to that benefit is at least 75 percent of the nominal value or maximum payout of such benefit, the insurer shall disclose to any potential buyer the premium and the maximum payout of the benefit.

"(5)(A) Each medicare supplemental policy shall be guaranteed renewable.

"(B) If the medicare supplemental policy is terminated by the group policyholder and is not replaced as provided under subparagraph (D), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)—

"(i) provides for continuation of the benefits contained in the group policy, or

"(ii) provides for such benefits as otherwise meets the requirements of this section.

"(C) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall—

"(i) offer the certificateholder the conversion opportunity described in subparagraph (B), or

"(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

"(D) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(6)(A) A medicare supplemental policy may not deny a claim for losses incurred for a preexisting condition more than 6 months after the effective date of coverage and may not define a preexisting condition as a condition for which medical advice was given or treatment was recommended by or received from a physician more than 6 months before the effective date of coverage.

"(B) If a medicare supplemental policy or certificate replaces another such policy or certificate, any period under the policy or certificate being replaced during which claims were denied by reason of a preexisting condition, exclusion period, rating period, elimination period, or probationary period shall be credited toward any such period under the new policy or certificate.

"(p)(1) The standards established pursuant to this subsection (in this subsection and subsection (t) referred to as 'medicare supplemental insurance simplification standards' or 'simplification standards') shall include—

"(A) limitations on the benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(B) uniform language and format to be used with respect to such benefits for the purposes described in subsection (o)(3), and

"(C) transitional requirements consistent with paragraph (4).

"(2) The simplification standards established pursuant to this subsection shall provide—

"(A) for such groups of basic benefits, or additional, optional benefits, as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

"(B) for identification of a core group of basic benefits which includes only the minimum benefits required of a medicare supplemental policy (as of the date of the enactment of this subsection and not including payment of any deductibles); and

"(C) that, subject to paragraph (5)—

"(i) if the simplification standards provide for medicare supplemental insurance benefits to be offered as a core group of basic benefits plus a defined list of optional additional benefits to be offered to consumers on an optional basis, then the total number of defined optional additional benefits offered shall not exceed 10;

"(ii) if the simplification standards provide for medicare supplemental insurance benefits to be offered through defined benefit packages or policies, then the total number of different benefit packages (counting the core group of basic benefits and counting each combination of benefits that may be offered as a separate benefit package) that may be established shall not exceed 10; and

"(iii) if the simplification standards provide for medicare supplemental insurance benefits to be offered through defined benefits that the insurer packages as it deems appropriate, the total number of packages offered by an insurer cannot exceed 4, and the total number of benefits to be packaged may not exceed 10.

"(3) The limitations on benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate direct comparison of prices and benefits among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, and (iv) promoting market stability.

"(4) The transitional requirements of this paragraph are that the simplification standards shall not apply in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of such standards.

"(5)(A) Except as provided in subparagraph (B), no State with a regulatory program approved under subsection (b)(1) may provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable simplification standards.

"(B)(i) The State may, upon application by an insurer, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the applicable simplification standards in order to offer new or innovative benefits as part of the policy. Any such new or innovative benefits shall be offered in a manner as approved by the State, which is consistent and practically achievable under the simplification standards. Such new or innovative benefits may include benefits that are not otherwise available and are cost-effective.

"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

"(B) A State with a regulatory program approved under subsection (b)(1) may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

"(7) The Secretary may waive the application of simplification standards in regard to the limitation of benefits described in paragraph (1)(A) in those States that on the date of enactment of this subsection had in place an alternative simplification program.

"(8) By not later than 4 years after the date of enactment of this subsection, the Comptroller General shall submit to Congress a report describing the impact of the program on consumer protection, health benefit innovation and value of innovative benefits, consumer choice, and health care costs and shall include in the report such recommendations on the appropriate roles of the Association, States, and the Secretary in carrying out such a program as he deems appropriate.".

(b) REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE.—

(1) IN GENERAL.—Section 1882(d)(4)(B) (42 U.S.C. 1395ss(d)(4)(B)) is amended by striking the second sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991.

(c) PREVENTING DUPLICATION.—

(1) IN GENERAL.—Subsection (d)(3) of section 1882 (42 U.S.C. 1395ss) is amended—

(A) in subparagraph (A)—

(i) by striking "Whoever knowingly sells" and inserting "It is unlawful for a person to sell or issue",

(ii) by striking "substantially",

(iii) by inserting "or title XIX" after "other than this title",

(iv) by striking ", shall be fined" and inserting ". Whoever violates the previous sentence shall be fined", and

(v) by striking "$5,000" and inserting "$25,000"; and

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

"(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating, to the best of the individual's knowledge, what medicare supplemental policies the individual has, from what source, and whether the individual has applied for and been determined to be entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary (as described in section 1905(p)(1)) or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

The written acknowledgment under subclause (II) does not constitute verification or affirmation by (or on behalf of) the seller or issuer of the truth of any information supplied by an individual in the written statement described in subclause (I).

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states that a medicare-eligible individual does not need more than one medicare supplemental policy,

"(II) states that individuals 65 years of age or older may be eligible for benefits under the State medicaid program under title XIX and that such individuals who are entitled to benefits under that program usually do not need a medicare supplemental policy and that benefits and premiums under any such policy shall be suspended upon request of the policyholder during the period of entitlement to benefits under such title, and

"(III) includes any telephone number established under section 1889, as well as the address and local telephone number of any counseling program offered by (or with the assistance of) the State, under its State insurance department, or under a State agency on aging for individuals considering purchase of a medicare supplemental policy and the address and local telephone number of the State medicaid office.

"(iii)(I) Except as provided in subclauses (II) and (III), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title XIX, the sale of such a policy shall be considered to be a violation of subparagraph (A).

"(II) Subclause (I) shall not apply in the case of an individual who has another policy, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective and the issuer or seller certifies in writing that such policy will not, to the best of the issuer or seller's knowledge, duplicate coverage (taking into account any such replacement).

"(III) Subclause (I) also shall not apply if a State medicaid plan under title XIX pays the premiums for the policy, or pays less than an individual's (who is described in section 1905(p)(1)) full liability for medicare cost sharing as defined in section 1905(p)(3)(A).

"(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure.".

(2) SUSPENSION OF POLICIES DURING RECEIPT OF MEDICAID BENEFITS.—Section 1882(o) (42 U.S.C. 1395ss(o)), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder for the period in which the policy or certificate holder indicates that the policy or certificate holder has applied for and been determined to be entitled to medical assistance under title XIX. If such suspension occurs and if the policy or certificate holder loses entitlement to such medical assistance, coverage under such policy shall be automatically reinstituted (effective as of the date of termination of such entitlement) under terms described in subsection (n)(6)(A)(ii) if the policy or certificate holder receives notice of loss of such entitlement from the policy or certificate holder within 90 days after the date of such loss.".

(3) CONFORMING AMENDMENT.—Section 1882(d)(5) is amended by inserting "(3)(B)," after "(3)(A),".

(4) INCREASE IN OTHER CIVIL MONEY PENALTIES.—Paragraphs (1) and (4)(A) of section 1882(d) of such Act are amended by striking "$5,000" and inserting "$25,000".

(d) LOSS RATIOS AND REFUND OF PREMIUMS.—

(1) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) as amended by subsection (a), is further amended—

(A) in subsection (c), by amending paragraph (2) to read as follows:

"(2) meets the requirements of subsection (q);";

(B) by striking the sentence following subsection (c)(4); and

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

"(q)(1) A medicare supplemental policy or health insurance policy may not be issued or sold in any State unless—

"(A) the policy can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such periods and in accordance with accepted actuarial principles and practices and standards developed by the National Association of Insurance Commissioners) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 65 percent in the case of individual policies; and

"(B) the issuer of the policy provides for the issuance of a proportional refund, or a credit against future premiums of a proportional amount, based on the premium paid and in accordance with paragraph (3), of the amount of premiums received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected (net of such refunds or credits) complies with the expectation required under subparagraph (A).

For purposes of applying subparagraph (A) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

"(2)(A) Paragraph (1)(B) shall be applied with respect to each type of policy by policy number. Paragraph (1)(B) shall not apply to a policy with respect to the first 2 years in which it is in effect. The Comptroller General, in consultation with the National Association of Insurance Commissioners, shall submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(B) to the first 2 years in which policies are effective.

"(B) A refund or credit required under paragraph (1)(B) shall be made to each policyholder insured under the applicable policy as of the last day of the year involved.

"(C) Such a refund or credit shall include interest from the end of the policy year involved until the date of the refund at a rate as specified by the Secretary for this purpose from time to time which is not less than the average rate of interest for 13-week Treasury notes.

"(D) For purposes of this paragraph and paragraph (1)(B), refunds or credits against premiums due shall be made, with respect to a policy year, not later than the third quarter of the succeeding policy year.

"(3) The provisions of this subsection do not preempt a State from requiring a higher percentage than that specified in paragraph (1)(A).

"(4) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the requirements of paragraph (1)

and shall report the results of such audits to the State involved and to the Secretary.".

(2) ASSURING ACCESS TO LOSS RATIO INFORMATION.—Section 1882(b)(1)(C) (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

"and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

(e) IMPLEMENTATION OF PROCESS TO APPROVE PREMIUM INCREASES.—Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended—

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

(2) by adding "and" at the end of subparagraph (E);

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

"(F) provides for a process for approving or disapproving proposed premium increases with respect to such policies, and establishes a policy for the holding of public hearings prior to approval of a premium increase,".

(f) MEDICARE SELECT POLICIES.—

(1) Section 1882 (42 U.S.C. 1395ss) as amended by subsection (d), is further amended by adding at the end the following:

"(r) If a policy meets the NAIC Model Standards except that benefits under the policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), the policy shall nevertheless be treated as meeting those standards if—

"(1) full benefits are provided for items and services furnished through a network of entities which have entered into contracts with the issuer of the policy;

"(2) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network;

"(3) the network offers sufficient access; and

"(4) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network.".

(2) Section 1882(c)(1) (42 U.S.C. 1395ss(c)(1)) is amended by inserting "(except as otherwise provided by subsection (r))" before the semicolon.

(3) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) (as amended by subsection (e) of this Act) is further amended—

(A) in subparagraph (A), by inserting ", except as otherwise provided by subparagraph (G)" before the semicolon;

(B) by striking "and" at the end of subparagraph (E);

(C) by inserting "and" at the end of subparagraph (F); and

(D) by adding after subparagraph (F) the following:

"(G) in the case of a policy that meets the standards under subparagraph (A) except that benefits under the policy are limited to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), provides for the application of requirements equal to or more stringent than the requirements under subsection (r),".

(4)(A) Section 1882 (42 U.S.C. 1395ss) as amended by paragraph (1), is further amended by adding at the end the following:

"(s) The Secretary may enter into a contract with an entity whose policy has been certified under subsection (r) or has been approved by a State under subsection (b)(1)(G) to determine whether items and services (furnished to individuals entitled to benefits under this title and under that policy) are not allowable under section 1862(a)(1). Payments to the entity shall be in such amounts as the Secretary may determine, taking into account estimated savings under contracts with carriers and fiscal intermediaries and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(C), paragraph (3)(D), and paragraph (3)(E) of section 1842(b) shall apply to the entity.".

(B) The first sentence of section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended by inserting "(or subject to review under section 1882(s))" after "section 1876".

(g) CLARIFICATION CONCERNING MEDICARE HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—The first sentence of section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting before the period the following: ", nor any such policy or plan under a contract under section 1876".

(h) MONITORING OF STATE MEDIGAP PROGRAMS.—

(1) REVIEW BY SECRETARY.—Section 1882 (42 U.S.C. 1395ss) as amended by subsection (f), is further amended—

(A) in subsection (b)(1), in the matter following subparagraph (G), by striking "Panel" and inserting "Secretary";

(B) in subsection (b)(1), by adding at the end the following: "If the Secretary finds that a State regulatory program no longer meets the standards and requirements of this paragraph, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State to continue to meet such standards and requirements."; and

(C) in subsection (g)(2)(B), by inserting "and whose regulatory program the Secretary finds continues to meet the standards and requirements of subsection (b)(1)" before the period.

(2) REPORTING BY STATES.—Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)), as amended by subsection (f), is further amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by inserting "and" at the end of subparagraph (G);

(C) by inserting after subparagraph (G) the following:

"(H) reports to the Secretary on the implementation and enforcement of standards and requirements of this paragraph at intervals established by the Secretary,"; and

(D) by adding at the end the following new sentence: "The report required under subsection (H) shall include information on loss ratios of policies sold in the State, frequency and types of instances in which policies approved by the State fail to meet the standards of this paragraph, actions taken by the State to bring such policies into compliance, and information regarding State programs implementing consumer protection provisions, and such further information as the Secretary in consultation with the National Association of Insurance Commissioners, may specify.".

(i) DISCLAIMER FOR UNAPPROVED POLICIES.—Section 1882(d) (42 U.S.C. 1395ss(d)) is amended—

(1) in paragraph (5), by striking "and (4)(A)" and inserting "(4)(A), (4)(B), and (5)",

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5)(A) If an insurer issues a medicare supplemental policy in a State without an approved regulatory program, and for which the Secretary has determined that the State does not provide consumer protection as great as would be offered under an approved program, and if that policy does not have a certification in effect under subsection (a), the insurer shall—

"(i) cause to be prominently displayed in at least 12 point type on any advertisement for that policy on each page of the outline of coverage for the policy described in section 1882(o)(3), and on the first page of the policy, the following statement: 'This policy has not been certified by the Secretary of the United States Department of Health and Human Services as meeting Federal requirements for Medicare supplemental policies.'; and

"(ii) require the purchaser to sign the following statement: 'I understand that this policy has not been certified by the Secretary of the United States Department of Health and Human Services as meeting Federal requirements for Medicare supplemental policies.'.

"(B) An insurer shall be subject to a civil monetary penalty not to exceed $25,000 for each violation of any requirement of subparagraph (A).".

(j) ADOPTION OF NEW STANDARDS.—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (f), is further amended by adding at the end the following:

"(t)(1)(A) If within 9 months after the date of enactment of this subsection, the National Association of Insurance Commissioners revises the NAIC Model Regulation previously promulgated for purposes of this section to incorporate all the requirements and standards of subsections (o), (p), (q), and (r), and other changes in law made by the Omnibus Budget Reconciliation Act of 1990, then subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards.

"(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in paragraph (1), the Secretary shall promulgate, not later than 9 months after the end of such period, revised Federal model standards to incorporate all the requirements and standards of subsections (o), (p), (q), and (r), and other changes in law made by the Omnibus Budget Reconciliation Act of 1990, and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the revised Federal model standards.

"(C)(i) Subject to clause (ii), the date specified in this paragraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for

medicare supplemental policies to meet the NAIC or Federal simplification standards, but

"(II) having a legislature which is not scheduled to meet in 1991 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1991. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(2) By not later than 2 years after the date of enactment of this subsection, the Secretary shall report to the Congress on the adoption of the standards and requirements of this section, including the identification of those States which do and do not have regulatory programs that meet the requirements of this section, and the reasons for the failure of any States to adopt some or all of the standards and requirements of this section.

"(3) In promulgating simplification standards under subsection (p)(1), the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(4)(A) Every 3 years the Secretary shall, in consultation with the NAIC, evaluate the appropriateness of new or innovative benefits offered pursuant to subsection (p)(5)(B), and determine whether the incorporation of such new or innovative benefits into the simplification standards would further the purposes of such standards. If within 90 days after a request from the Secretary, the Association—

"(i) makes a determination that modification of the NAIC or Federal simplification standards is appropriate; and

"(ii) modifies the NAIC or Federal simplification standards to include such additional group of benefits (including accompanying language and format with respect to such benefits),

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on or after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979 included a reference to the NAIC or Federal simplification standards as modified. If the Association fails to make a determination with respect to appropriateness of modifying the NAIC or Federal simplification standards, then the Secretary may make such determination and may modify the NAIC or Federal simplification standards to include such additional benefits (including accompanying language and format with respect to such benefits) as may be appropriate. In such a case, subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on or after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979 included a reference to the NAIC or Federal simplification standards as modified.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts the modifications to the NAIC or Federal simplification standards or 1 year after the date the Association or the Secretary first adopts the modifications to such standards, except that, in the case of a State that the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than appropriating funds) in order for medicare supplemental policies to meet the modified NAIC or Federal simplification standards, but

"(ii) having a legislature which is not scheduled to meet within the 1-year period after the date the Association or Secretary first adopts the modifications to such standards,

the date specified in this subparagraph is the first day of the first calendar year after the close of the first legislative session of the State legislature that begins after the date the Association or the Secretary first adopts such modifications. For the purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the legislative session shall be deemed to be a separate regular session of the State legislature.

"(5) If benefits under this title are changed and the Secretary determines, in consultation with the Association, that changes in the simplification standards are needed to reflect such changes in benefits, the provisions for the modification of simplification standards outlined in paragraph (4)(A) will be applied.".

(k) HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.—

(1) GRANTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications to the Secretary that meet the requirements of this subsection for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate health insurance coverage to individuals who are eligible to receive benefits under title XVIII of the Social Security Act (hereafter in this section referred to as "eligible individuals"). The Secretary shall prescribe regulations to establish a minimum level of funding for a grant issued under this section.

(2) GRANT APPLICATIONS.—(A) In submitting an application under this subsection, a State may consolidate and coordinate an application that consists of parts prepared by more than one agency or department of such State.

(B) As part of an application for a grant under this section, a State shall submit a plan for a State-wide health insurance information, counseling, and assistance program. Such program shall—

(i) establish or improve upon a health insurance information, counseling, and assistance program that provides counseling (including direct counseling) and assistance to eligible individuals in need of health insurance information, including—

(I) information that may assist individuals in obtaining benefits and filing claims under titles XVIII and XIX of the Social Security Act;

(II) policy comparison information for medicare supplemental policies (as described in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)) and information that may assist individuals in filing claims under such medicare supplemental policies;

(III) information regarding long-term care insurance; and

(IV) information regarding other types of health insurance benefits that the Secretary determines to be appropriate;

(ii) in conjunction with the health insurance information, counseling, and assistance program described in clause (i), establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to health insurance coverage (including legal problems), as determined by the Secretary;

(iii) provide for a sufficient number of staff positions (including volunteer positions) necessary to provide the services of the health insurance information, counseling, and assistance program;

(iv) provide assurances that staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program have no conflict of interest in providing the services described in clause (i);

(v) provide for the collection and dissemination of timely and accurate health care information to staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program and regular staff meetings and continuing education programs for the purpose of informing the staff of current developments in legal and economic issues relating to the provision of health insurance;

(vi) provide for training programs for staff members (including volunteer staff members);

(vii) provide for the coordination of the exchange of health insurance information between the staff of departments and agencies of the State government and the staff of the health insurance information, counseling, and assistance program;

(viii) make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the State government and the Federal Government responsible for providing or regulating health insurance;

(ix) establish an outreach program to provide the health insurance information and counseling described in clause (i) and the assistance described in clause (ii) to eligible individuals; and

(x) demonstrate, to the satisfaction of the Secretary, an ability to provide the counseling and assistance required under this subsection.

(3) SPECIAL GRANTS.—(A) A State that is conducting a health insurance information, counseling, and assistance program that is substantially similar to a program described in paragraph (2)(B), shall, as a requirement for eligibility for a grant under this section, demonstrate, to the satisfaction of the Secretary, that such State shall maintain the activities of such program at least at the level that such activities were conducted immediately preceding the date of the issuance of any grant during the period of time covered by such grant under this section and that such activities will continue to be maintained at such level.

(B) If the Secretary determines that the existing health insurance information, counseling, and assistance program is substantially similar to a program described in paragraph (2)(B), the Secretary may waive some or all of the requirements described in paragraph (2)(B), and issue a grant to the State for the purpose of increasing the number of services offered by the health insurance information, counseling, and assistance program, experimenting with new methods of outreach in conducting such program, or expanding such program to geographic areas of the State not previously served by the program.

(4) CRITERIA FOR ISSUING GRANTS.—In issuing a grant under this section, the Secretary shall consider—

(A) the commitment of the State to carrying out the health insurance information, counseling, and assistance program described in paragraph (2)(B), including the level of cooperation demonstrated—

(i) by the office of the chief insurance regulator of the State, or the equivalent State entity;

(ii) other officials of the State responsible for overseeing insurance plans issued by nonprofit hospital and medical service associations; and

(iii) departments and agencies of such State responsible for—

(I) administering funds under title XIX of the Social Security Act, and

(II) administering funds appropriated under the Older Americans Act;

(B) the population of eligible individuals in such State as a percentage of the population of such State; and

(C) in order to ensure the needs of rural areas in such State, the relative costs and special problems associated with addressing the special problems of providing health care information, counseling, and assistance to the rural areas of such State.

(5) ANNUAL STATE REPORT.—A State that receives a grant under paragraph (3) or (4) shall, not later than 180 days after receiving such grant, and annually thereafter, issue an annual report to the Secretary that includes information concerning—

(A) the number of individuals served by the State-wide health insurance information, counseling and assistance program of such State;

(B) an estimate of the amount of funds saved by the State, and by eligible individuals in the State, in the implementation of such program; and

(C) the problems that eligible individuals in such State encounter in procuring adequate and appropriate health care coverage.

(6) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, and annually thereafter, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that—

(A) summarizes the allocation of funds authorized for grants under this section and the expenditure of such funds;

(B) summarizes the scope and content of training conferences convened under subsection (f);

(C) outlines the problems that eligible individuals encounter in procuring adequate and appropriate health care coverage;

(D) makes recommendations that the Secretary determines to be appropriate to address the problems described in subparagraph (C); and

(E) in the case of the report issued 2 years after the date of enactment of this section, evaluates the effectiveness of counseling programs established under this program, and makes recommendations regarding continued authorization of funds for these purposes.

(7) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $10,000,000 for each of fiscal years 1991, 1992, and 1993, to fund the grant programs described in this subsection.

(l) MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE.—(1) Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following:

"MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE

"SEC. 1889. The Secretary shall provide information via a toll-free telephone number on the programs under this title and on medicare supplemental policies as defined in section 1882(g)(1) (including the relationship of State programs under title XIX to such policies).".

(2) The Secretary is authorized to conduct demonstration projects in up to 5 States for the purpose of establishing statewide toll-free telephone numbers for providing information on medicare benefits, medicare supplemental policies available in the State, and benefits under the State medicaid program.

SEC. 6156. TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) EXTENSIONS OF EXPIRING AUTHORITIES.—

(1) PROHIBITION OF PAYMENT CYCLE CHANGES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down or speeding up claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(2) WAIVER OF LIABILITY FOR HOME HEALTH AGENCIES.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(b) APPLICATION OF HOSPITAL WAGE INDEX TO HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended to read as follows:

"(iii) In establishing limits under this subparagraph for portions of a cost reporting period occurring during a fiscal year, the Secretary shall utilize a wage index equal to the area wage index applicable under section 1886(d)(3)(E) during the fiscal year to hospitals located in the geographic area in which the home health agency is located, in updating the wage index for establishing such limits the Secretary shall provide that payments to home health agencies will be no greater or lesser than such payments would have been without regard to the update of such wage index.".

(2) TRANSITION PROVISION.—Notwithstanding section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of such Act with respect to services furnished by a home health agency for portions of a cost reporting period occurring during a fiscal year, utilize a wage index equal to—

(A) for portions of cost reporting periods beginning on or after July 1, 1991, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 67 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 33 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for portions of cost reporting periods beginning on or after July 1, 1992, and on or before June 30, 1993, a combined area wage index consisting of—

(i) 33 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 67 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to home health agency cost reporting periods beginning on or after July 1, 1993.

(c) RECOGNITION OF COSTS OF HOSPITAL SUPPORTED NURSING AND ALLIED HEALTH EDUCATIONAL PROGRAMS AS ALLOWABLE REASONABLE COSTS.—

(1) IN GENERAL.—(A) Beginning on or after October 1, 1990, all costs related to clinical training, as defined by the Secretary, on a hospital's premises for a hospital supported education program and which are incurred by a hospital or by an educational institution related to the hospital by common ownership or common control, shall be considered costs incurred for approved educational activities for purposes of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)). Subject to subparagraph (B), such costs shall be allowable to a hospital on a reasonable cost basis and shall be considered to be pass-through costs under title XVIII of such Act. An education program shall be deemed to be hospital supported if the program is—

(i) an approved nursing or allied health education program;

(ii) is not a hospital operated program; and

(iii) the hospital participates in the program in conjunction with an educational institution.

(B) For purposes of subparagraph (A), section 1886(a)(4) of the Social Security Act, and section 1861(v) of such Act, costs relating to a hospital supported education program shall be deemed to be reimbursable—

(i) only to the extent that the proportion of costs claimed by a hospital for a hospital supported education program (which proportion shall be expressed as a ratio, the numerator of which is the dollar amount of support given by the hospital to the school in the specific 12-month period covered by the hospital's cost report and the denominator of which is the total allowable costs for inpatients hospital services irrespective of how such costs are paid under this title) are not greater than such proportion of costs claimed by such hospital (subject to the review described in paragraph (2)), in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990;

(ii) only if the hospital is receiving a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students incidental to their training, or the hospital hires graduates from the hospital supported education program; and

(iii) only to the extent that the cost is less than the cost the hospital would be expected to incur were such a hospital to operate its own similar program.

(2) SPECIAL AUDIT RULE.—For purposes of paragraph (1)(B)(i), the Secretary's determination of the initial proportion of costs (that is, those costs claimed in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990) shall be accomplished by a special audit (or other appropriate mechanism), which audit (or mechanism) shall ensure

that each hospital has appropriately reported its level of support during such period.

(3) PROHIBITION ON RECOUPMENT OF CERTAIN NURSING AND ALLIED EDUCATIONAL COSTS.—(A) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall not disallow, recoup from, or otherwise reduce or adjust payments under title XVIII of the Social Security Act to hospitals with respect to claims by a hospital on its medicare costs reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to hospital supported education programs on the grounds that the costs of such programs were not allowable costs or were included in the definition of "operating costs of inpatient services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under that section.

(B) The Secretary shall provide that if any disallowance, recoupment, adjustment, or reduction in payments described in subparagraph (A) has occurred prior to the date of enactment of this Act, such actions shall be reversed and any necessary refunds or administrative adjustments shall be promptly made.

(3) CONFORMING AMENDMENT.—(A) Section 6205(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "(a)" and the subsection heading.

(B) Section 6205(b) of such Act is hereby repealed.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as requiring the Secretary of Health and Human Services to modify those existing regulations or instructions which pertain to the determination of reasonable costs for a hospital-operated education program.

(d) CASE MANAGEMENT DEMONSTRATION PROJECTS RESUMED.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall resume the 3 case management demonstration projects described in paragraph (2) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA").

(2) PROJECT DESCRIPTIONS.—The demonstration projects referred to in paragraph (1) are—

(A) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(B) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(C) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(3) TERMS AND CONDITIONS.—The demonstration projects resumed pursuant to paragraph (1) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to paragraph (1), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

(e) TREATMENT OF CERTAIN HOSPITALS WITH RESPECT TO PAYMENTS FOR GRADUATE MEDICAL EDUCATION COSTS.—Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is amended—

(1) by inserting "(i)" after "(E)"; and

(2) by adding at the end of subparagraph (E) the following new clause:

"(ii) In the case of a hospital which did have an approved medical residency training program for a cost reporting period beginning during fiscal year 1984, but which made a commitment to substantially expand its program that was not fully reflected in costs incurred during cost reporting periods beginning in such fiscal year, such hospital may request the use of an alternative cost reporting period other than that which began during fiscal year 1984 for purposes of determining the average amount recognized as reasonable medical education costs of the hospital for each full-time equivalent resident. The Secretary shall review each such request and determine whether it would be appropriate to provide for an FTE resident amount based on an alternative cost reporting period, based on approved FTE resident amounts for comparable programs. If the Secretary approves a request under this clause, payments based on alternative cost reporting periods for a hospital described under this clause, shall begin for the first cost reporting period for which the Secretary determines the hospital has substantially implemented its program expansion.".

(f) HCFA SERVICE FELLOWS PROGRAM.—

(1) IN GENERAL.—Section 1117 (42 U.S.C. 1317) is amended—

(A) by inserting "; HCFA SERVICE FELLOWS PROGRAM" at the end of the heading,

(B) by inserting "(a)" after "SEC. 1117."; and

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

"(b)(1) The Administrator may establish an HCFA Service Fellows Program under which up to 10 individuals from the private sector or academia who have demonstrated exceptional competence or highly specialized skills or knowledge may conduct healthcare related research, studies, and investigations within the Health Care Financing Administration.

"(2) Qualified individuals may be appointed by the Administrator (without regard to rules respecting appointments, classification, and pay rates in the competitive service) to serve as HCFA Service Fellows for a period of not to exceed 2 years (which may, in individual cases under exceptional circumstances, be extended for up to 2 additional years).

"(3) Individuals appointed as HCFA Service Fellows shall not be included in any determination of the number of full-time equivalent employees of the Department for the purpose of any limitation on the number of such employees established by any law.

"(4) The Administrator is not authorized to expend more than $750,000 annually on the costs of the HCFA Service Fellows Program (including the costs of salaries under the program)".

(g) SELF-REFERRAL TECHNICAL.—(1) Section 1877(b) (42 U.S.C. 1395nn(b)) is amended by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following:

"(4) SERVICES UNRELATED TO INVESTMENT INTEREST OR COMPENSATION ARRANGEMENT.—In the case of clinical laboratory services furnished by a hospital pursuant to a referral by a physician who has a financial relationship with the hospital that does not involve the provision of such services.".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 6167. LIVING WILLS AND OTHER ADVANCE DIRECTIVES.

(a) MEDICARE PROVIDER AGREEMENTS.—

(1) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc(a)(1)) is amended—

(A) in subsection (a)(1)—

(i) by striking "and" at the end of subparagraph (O),

(ii) by striking the period at the end of subparagraph (P) and inserting ", and", and

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

"(Q) in the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to comply with the requirement of subsection (f) (relating to maintaining written policies and procedures respecting advance directives).", and

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

"(f)(1) For purposes of subsection (a)(1)(Q) and sections 1819(c)(1)(E), 1833(r), 1876(c)(8), and 1891(a)(6), the requirement of this subsection is that a provider of services or prepaid or eligible organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the policies of the provider or organization respecting the implementation of such rights;

"(B) to inquire of an individual (or a family member) whether the individual has executed an advance directive and document in the individual's medical record the response to the inquiry;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives at facilities of the provider or organization; and

"(E) to provide (individually or with others) for education for staff on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(2) APPLICATION TO PREPAID ORGANIZATIONS.—

(A) ELIGIBLE ORGANIZATIONS.—Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8) A contract under this section shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(B) OTHER PREPAID ORGANIZATIONS.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) The Secretary may not provide for payment under subsection (a)(1)(A) with respect to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(3) CONFORMING AMENDMENTS.—

(A) Section 1819(c)(1) (42 U.S.C. 1395i-3(c)(1)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A skilled nursing facility must comply with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(B) Section 1891(a) (42 U.S.C. 1395bbb(a)) is amended by adding at the end the following:

"(6) The agency complies with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (3) shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(B) The amendments made by paragraph (2) shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(a)(1)(A) of such Act as of the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(b) MEDICAID STATE PLAN REQUIREMENTS.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a(a)) is amended—

(A) in subsection (a)—

(i) by striking "and" at the end of paragraph (52),

(ii) by striking the period at the end of paragraph (53), and

(iii) by inserting after paragraph (53) the following new paragraphs:

"(54) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirement of subsection (s); and

"(55) provide that the State, acting through a State agency, association, or other private entity, develop a written description of the law of the State (whether statutory or common law) concerning advance directives that would be distributed by providers under the requirements of subsections."; and

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

"(s)(1) For purposes of subsection (a)(54) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the hospital's written policies respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)) is amended—

(i) by inserting "meets the requirement of section 1902(s)" after "which" the first place it appears, and

(ii) by inserting "meets the requirement of section 1902(a) and" after "which" the second place it appears.

(B) Section 1919(c)(2) of such Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A nursing facility must comply with the requirement of section 1902(s) (relating to maintaining written policies and procedures respecting advance directives).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study or enter into an agreement with a private entity to conduct a study and submit a report to Congress with respect to the implementation of directed health care decisions. Such study shall—

(A) evaluate the experience of practitioners, providers, and government regulators in complying with the provisions of this section;

(B) assess the awareness and utilization of advance directives as a result of this section;

(C) investigate methods of encouraging reciprocity among States in the enforcement of advance directives;

(D) report on the manner in which treatment decisions are made in the absence of an advance directive; and

(E) make such recommendations for legislation as may be appropriate to carry out the purposes of this Act.

(2) EFFECTIVE DATE.—The study and report provided for in this subsection shall be submitted to Congress no later than the date which is 4 years after the date of enactment of this section.

(d) PUBLIC EDUCATION CAMPAIGN.—

(1) IN GENERAL.—The Secretary, no later than 6 months after the date of enactment of this section, shall develop and implement a national campaign to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions.

(2) DEVELOPMENT AND DISTRIBUTION OF INFORMATION.—The Secretary shall develop or approve nationwide informational materials that would be distributed by providers under the requirements of this section, to inform the public and the medical and legal profession of each person's right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the existence of advance directives.

(3) PROVIDING ASSISTANCE TO STATES.—The Secretary shall assist appropriate State agencies, associations, or other private entities in developing the State-specific documents that would be distributed by providers under the requirements of this section. The Secretary shall further assist appropriate State agencies, associations, or other private entities in ensuring that providers are provided a copy of the documents that are to be distributed under the requirements of the section.

(4) DUTIES OF SECRETARY.—The Secretary shall mail information to Social Security recipients, add a page to the medicare handbook with respect to the provisions of this section, and provide for and install a nationwide, toll-free informational number to provide State agencies, private entities, and medicare and medicaid eligible individuals with information regarding the option to execute advance directives and the rights of individuals under the provisions of this section.

PART 4—PROVISIONS RELATING TO PREMIUMS, DEDUCTIBLES, AND COINSURANCE

SEC. 6161. PART B PREMIUM.

Section 1839(e) is amended by inserting "and for each month after December 1992 and before January 1996" after "January 1991" each time it appears.

SEC. 6162. CHANGE IN PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 1395l) is amended by inserting after "$75" the following: "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996".

SEC. 6163. 20 PERCENT COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)(D)(i)), by striking "in the case of" and all that follows through "basis, or",

(2) in subsection (a)(2)(D)(i), by striking "in the case of" and all that follows through "1866, or", and

(3) in subsection (b)(3), by striking "(A) under subsection (a)(1)(D)" and all that follows through "(B)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1991.

Subtitle C—Medicaid

PART 1—PRESCRIPTION DRUG DISCOUNTS

SEC. 6201. REIMBURSEMENT FOR PRESCRIBED DRUGS UNDER MEDICAID.

(a) IN GENERAL.—

(1) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNLESS REBATE AGREEMENTS AND DRUG USE REVIEW IN EFFECT.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (9) and inserting "; or", and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) with respect to covered outpatient drugs of a manufacturer dispensed in any State unless, (A) except as provided in section 1927(a)(3), the manufacturer complies with the rebate requirements of section 1927(a) with respect to the drugs so dispensed in all States, and (B) effective January 1, 1993, the State provides for drug use review in accordance with section 1927(g).".

(2) PROHIBITING STATE PLAN DRUG ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REBATE AGREEMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking "and" at the end of paragraph (52),

(B) by striking the period at the end of paragraph (53) and inserting "; and", and

(C) by inserting after paragraph (53) the following new paragraph:

"(54)(A) provide that, any formulary or similar restriction (except as provided in section 1927(d)) on the coverage of covered outpatient drugs under the plan shall permit the coverage of covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under section 1927(a), which are prescribed for a medically accepted indication (as defined in subsection 1927(k)(6)), and

"(B) comply with the reporting requirements of section 1927(b)(2)(A) and the requirements of subsections (d) and (g) of section 1927.".

(3) REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS, DRUG USE REVIEW, AND RELATED PROVISIONS.—Title XIX of the Social Security Act is amended by redesignating section 1927 as section 1928 and by inserting after section 1926 the following new section:

"PAYMENT FOR PRESCRIBED DRUGS

"SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with manufacturer). If a manufacturer has not entered into such an agreement before January 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall first apply to drugs dispensed under this title on or after January 1, 1991.

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1), and section 1903(i)(10)(A), shall not apply to the dispensing of a single source drug or innovator multiple source drug if (A) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the State plan for medical assistance; and (B)(i) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).

"(4) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of this section, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement. If the State establishes to the satisfaction of the Secretary that the agreement provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate each calendar quarter (or periodically in accordance with a schedule specified by the Secretary) in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed under the plan during the quarter (or such other period as the Secretary may specify). Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each calendar quarter and in a form consistent with a standard reporting format established by the Secretary, information on the total number of dosage units of each covered outpatient drug dispensed under the plan during the quarter, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(C) NOTICE TO SECRETARY.—Each State agency shall notify the Secretary within 30 days after the date each rebate is received under this section.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each quarter (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (k)(1)) and, effective for quarters beginning on or after January 1, 1994 (for single source drugs and innovator multiple source drugs), the manufacturer's best price (as defined in subsection (c)(2)(B)) for covered outpatient drugs for the quarter, and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (k)(1)) as of October 1, 1990 for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify average manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information about charges or prices by the Secretary in connection with a survey under this subparagraph or knowingly provides false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the rebate required under the agreement shall be increased by $10,000 for each day in which such information has not been provided, and, if such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section that knowingly provides false information is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph is confidential and shall not be disclosed by the Secretary or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler, except as the Secretary determines to be necessary to carry out this section and to permit the Comptroller General to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of no less than 1 year and shall be automatically renewed for a period of no less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until such period after the date of the notice as the Secretary may provide (but not beyond the term of the agreement).

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(c) AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—Except as otherwise provided in this subsection, the amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to single source drugs and innovator multiple source drugs shall be equal to the product of—

"(A)(i) for quarters (or periods) beginning after December 31, 1990, and before January 1, 1994, 15 percent of the average manufacturer price for each dosage form and

strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

"(ii) for quarters (or other periods) beginning after December 31, 1993, the greater of—

"(I) the difference between the average manufacturer price for a drug and 85 percent of such price, or

"(II) the difference between the average manufacturer price for a drug and the best price (as defined in paragraph (2)(B)) for such quarter (or period) for such drug, and

"(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—(A) The Secretary shall establish a method of adjusting the basic rebate specified under paragraph (1) for single source and innovator multiple source drugs of a manufacturer to ensure that a manufacturer's prices for such drugs to a State plan approved under this title, determined on an aggregate weighted average basis, using the average manufacturer price for each such drug, do not increase by a percentage that is greater than the increase in the Consumer Price Index for all urban consumers (U.S. average) from October 1, 1990 to the month before the beginning of the calendar quarter (or other period) involved.

"(B) In this subsection, the term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer to any wholesaler, retailer, nonprofit entity, or governmental entity within the United States (excluding depot prices of any agency of the Federal Government). The best price shall be inclusive of cash discounts, free goods, volume discounts, and rebates (other than rebates under this section) and shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.

"(3) REBATE FOR OTHER DRUGS.—The amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(A) 12 percent of the average manufacturer price for each dosage form and strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

"(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

"(d) LIMITATIONS ON COVERAGE OF DRUGS.—

"(1) PERMISSABLE RESTRICTIONS.—(A) Except as provided in paragraph (6), but subject to paragraph (5), a State may subject to prior authorization any covered outpatient drug.

"(B) A State may exclude or otherwise restrict coverage of a covered patient drug if—

"(i) the prescribed use is not for a medically accepted indication (as defined in (k)(6));

"(ii) the drug is contained in the list referred to in paragraph (2); or

"(iii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

"(A) Agents when used for anorexia or weight gain that are not approved for such use by the FDA.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Drugs described in section 107(c)(3) of the Drug Amendments of 1962 and identical, similar, or related drugs (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations ('DESI' drugs)).

"(J) Barbiturates.

"(3) UPDATE OF DRUG LISTINGS.—The Secretary shall (except with respect to new drugs approved by the FDA for the first 12 months following the date of approval of such drugs shall not be subject to being listed in paragraph (2) under the provisions of this paragraph), by regulation, periodically update the list of drugs described in paragraph (2) or classes of drugs, or their medical uses, which the Secretary, in consultation with the Commissioner of the Food and Drug Administration, has determined to be of marginal clinical value to beneficiaries, or, based on data collected by a State's medical assistance program's surveillance and utilization review program, to be subject to clinical abuse or inappropriate use.

"(4) INNOVATOR MULTIPLE-SOURCE DRUGS.—Innovator multiple-source drugs shall be treated as under otherwise applicable law and regulation.

"(5) PRIOR AUTHORIZATION PROGRAMS.—A State plan under this title may not require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (k)(6)) unless the system providing for such approval—

"(A) is available to physicians at least 10 hours each weekday, and provides for appropriate accommodations for obtaining prior authorization during other times;

"(B) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(C) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) TREATMENT OF NEW DRUGS.—A State may not exclude for coverage, subject to prior authorization, or otherwise restrict any new biological or drug approved by the Food and Drug Administration after the date of enactment of this section, for a period of 1 year after such approval.

"(7) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, provided such limitations are necessary to discourage waste.

Nothing in this section shall restrict the ability of a State to address individual instances of fraud or abuse in any manner authorized under the Social Security Act.

"(8) DELAYED EFFECTIVE DATE.—The provisions of paragraph (5) shall become effective with respect to drugs dispensed under this title on or after July 1, 1991.

"(e) DENIAL OF FEDERAL FINANCIAL PARTICIPATION IN CERTAIN CASES.—The Secretary shall provide that no payment shall be made to a State under section 1903(a) for an innovator multiple-source drug dispensed on or after July 1, 1991, if, under applicable State law, a less expensive noninnovator multiple source drug (other than the innovator multiple-source drug) could have been dispensed consistent with such law.

"(f) PHARMACY REIMBURSEMENT.—

"(1) PAYMENT TO PHARMACISTS.—

"(A) IN GENERAL.—Beginning fiscal year 1991 and ending September 30, 1993, each State plan under this title shall provide, after the end of each fiscal year and a lump-sum payment, for a payment to pharmacies dispensing covered outpatient drugs under this title during the fiscal year.

"(B) AMOUNT OF PAYMENT.—The amount of the payment under this subsection for any fiscal year to a pharmacist shall bear the same ratio to 5 percent of the total amount of rebates received under this section by the State in the fiscal year involved, as the ratio of the number of prescriptions filled by the pharmacy under this title in the fiscal year bears to the total of such number for all pharmacies in the State in the fiscal year, and will be made within 60 days after the end of each fiscal year.

"(2) NO REDUCTIONS IN REIMBURSEMENT LIMITS.—Prior to April 1, 1993, no changes may be made by the Secretary or a State to the formula used to determine the reimbursement limits in effect under this title as of August 1, 1990, which would result in a reduction in the limit relative to either the ingredient cost portion or the dispensing fee portion of the formula, for covered outpatient drugs.

"(3) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—HCFA shall establish Federal upper limits for all multiple source drugs for which the FDA has rated three or more therapeutically and pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such.

"(g) DRUG USE REVIEW.—

"(1) IN GENERAL.—

"(A) In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

"(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

"(i) compendia which shall consist of the following:

"(I) American Hospital Formulary Service Drug Information;

"(II) United States Pharmacopeia-Drug Information; and

"(III) American Medical Association Drug Evaluations; and

"(ii) the peer-reviewed medical literature.

"(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

"(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60 of title 42, Code of Federal Regulations.

"(2) DESCRIPTION OF PROGRAM.—Each drug use review program shall meet the following requirements for covered outpatient drugs:

"(A) PROSPECTIVE DRUG REVIEW.—(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

"(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

"(I) A reasonable effort must be made by the pharmacist to counsel such individual or caregiver of such individual face-to-face whenever possible, and otherwise to do so by telephone.

"(II) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant including the following:

"(aa) The name and description of the medication.

"(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

"(cc) Special directions and precautions for preparation, administration and use by the patient.

"(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

"(ee) Techniques for self-monitoring drug therapy.

"(ff) Proper storage.

"(gg) Prescription refill information.

"(hh) Action to be taken in the event of a missed dose.

"(III) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

"(aa) Name, address, telephone number, date of birth (or age) and gender.

"(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

"(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when a individual receiving benefits under this title or caregiver of such individual refuses such consultation.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

"(C) APPLICATION OF STANDARDS.—The program shall, on an ongoing basis, assess data on drug use against explicit predetermined standards (using the compendia and literature referred to in subsection (1)(B) as the source of standards for such assessment) including but not limited to monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse and, as necessary, introduce remedial strategies, in order to improve the quality of care and to conserve program funds or personal expenditures.

"(D) EDUCATIONAL PROGRAM.—The program shall, through its State drug use review board established under paragraph (3), either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists associations/societies or other organizations as specified by the State, and using data provided by the State drug use review board on common drug therapy problems, provide for active and ongoing educational outreach programs (including the activities described in paragraph (3)(C)(iii) of this subsection) to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices.

"(3) STATE DRUG USE REVIEW BOARD.—

"(A) ESTABLISHMENT.—Each State shall provide for the establishment of a drug use review board (hereinafter referred to as the 'DUR Board') either directly or through a contract with a private organization.

"(B) MEMBERSHIP.—The membership of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

"(i) The clinically appropriate prescribing of covered outpatient drugs.

"(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

"(iii) Drug use review, evaluation, and intervention.

"(iv) Medical quality assurance.

The membership of the DUR Board shall be made up at least ⅓ but no more than 51 percent practicing physicians and at least ⅓ practicing pharmacists.

"(C) ACTIVITIES.—The activities of the DUR Board shall include but not be limited to the following:

"(i) Retrospective DUR as defined in section (2)(B).

"(ii) Application of standards as defined in section (2)(C).

"(iii) Ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection. Intervention programs shall include, in appropriate instances, at least:

"(I) information dissemination sufficient to ensure the ready availability to physicians and pharmacists in the State of information concerning its duties, powers, and basis for its standards;

"(II) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

"(III) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow-up face-to-face discussions; and

"(IV) intensified review or monitoring of selected prescribers or dispensers.

The Board shall re-evaluate interventions after an appropriate period of time to determine if the intervention improved the quality of drug therapy, to evaluate the success of the interventions and make modifications as necessary.

"(D) ANNUAL REPORT.—Each State shall require the DUR Board to prepare a report on an annual basis. The State shall submit a report on an annual basis to the Secretary which shall include a description of the activities of the Board, including the nature and scope of the prospective and retrospective drug use review programs, a summary of the interventions used, an assessment of the impact of these educational interventions on quality of care, and an estimate of the cost savings generated as a result of such program. The Secretary shall utilize such report in evaluating the effectiveness of each State's drug use review program.

"(h) ELECTRONIC CLAIMS MANAGEMENT.—

"(1) IN GENERAL.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State agency to establish, as its principal means of processing claims for covered outpatient drugs under this title, a point-of-sale electronic claims management system, for the purpose of performing online, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(2) ENCOURAGEMENT.—In order to carry out paragraph (1)—

"(A) for calendar quarters during fiscal years 1991 and 1992, expenditures under the State plan attributable to development of a system described in paragraph (1) shall receive Federal financial participation under section 1903(a)(3)(A)(i) (at a matching rate of 90 percent) if the State acquires, through applicable competitive procurement process in the State, the most cost-effective telecommunications network and automatic data processing services and equipment; and

"(B) the Secretary may permit, in the procurement described in subparagraph (A) in the application of part 433 of title 42, Code of Federal Regulations, and parts 95, 205, and 307 of title 45, Code of Federal Regulations, the substitution of the State's request

for proposal in competitive procurement for advance planning and implementation documents otherwise required.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year the Secretary shall transmit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) how the size of such rebates compare with the size of rebates offered to other purchasers of covered outpatient drugs;

"(D) the effect of inflation on the value of rebates required under this section; and

"(E) trends in prices paid under this title for covered outpatient drugs.

"(j) EXEMPTION OF ORGANIZED HEALTH CARE SETTINGS.—(1) Health Maintenance Organizations that operate drug formularies or drug formulary systems specifically designed to provide outpatient prescription drug benefits, including those organizations that contract under section 1903(m), are not subject to the requirements of this section.

"(2) The State plan shall provide that hospitals providing medical assistance under such plan that such hospitals which bill the plan no more than the hospital's acquisition costs for covered outpatient drugs are not subject to the requirements of this section.

"(3) Nothing in this subsection shall be construed as providing that amounts for covered outpatient drugs paid by the institutions described in this subsection should not be taken into account for purposes of determining the best price as described in subsection (c).

"(k) DEFINITIONS.—In this section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (5)), and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling; and

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to, and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physician office visits.

"(E) Outpatient hospital emergency room visits.

"(F) Outpatient surgical procedures.

Such term also does not include any such drug or product which is used for a medical indication which is not a medically accepted indication.

"(4) NONPRESCRIPTION DRUGS.—If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug.

"(5) MANUFACTURER.—The term 'manufacturer' means any entity which is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, which appears in peer-reviewed medical literature or which is accepted by one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a calendar quarter, a covered outpatient drug (not including any drug described in paragraph (5)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributers operating under the new drug application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, provided that the listed product is generally available to the public through retail pharmacies in that State.

"(8) STATE AGENCY.—The term 'State agency' means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.".

(b) FUNDING.—

(1) DRUG USE REVIEW PROGRAMS.—Section 1903(a)(3) (42 U.S.C. 1936b(a)(3)) is amended—

(A) by striking "plus" at the end of subparagraph (C) and inserting "and", and

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

"(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adop-

tion of a drug use review program which conforms to the requirements of section 1927(g); plus".

(2) TEMPORARY INCREASE IN FEDERAL MATCH FOR ADMINISTRATIVE COSTS.—The per centum to be applied under section 1903(a)(7) of the Social Security Act for amounts expended during calendar quarters in fiscal year 1991 which are attributable to administrative activities necessary to carry out section 1927 (other than subsection (g)) of such Act shall be 75 percent, rather than 50 percent; after fiscal year 1991, the match shall revert back to 50 percent.

(c) DEMONSTRATION PROJECTS.—

(1) PROSPECTIVE DRUG UTILIZATION REVIEW.—

(A) The Secretary of Health and Human Services shall provide, through competitive procurement by not later than January 1, 1992, for the establishment of at least 10 statewide demonstration projects to evaluate the efficiency and cost-effectiveness of prospective drug utilization review (as a component of on-line, real-time electronic point-of-sales claims management) in fulfilling patient counseling and in reducing costs for prescription drugs.

(B) Each of such projects shall establish a central electronic repository for capturing, storing, and updating prospective drug utilization review data and for providing access to such data by participating pharmacists (and other authorized participants).

(C) Under each project, the pharmacist or other authorized participant shall assess the active drug regimens of recipients in terms of duplicate drug therapy, therapeutic overlap, allergy and cross-sensitivity reactions, drug interactions, age precautions, drug regimen compliance, prescribing limits, and other appropriate elements.

(D) Not later than January 1, 1994, the Secretary shall submit to Congress a report on the demonstration projects conducted under this paragraph.

(2) DEMONSTRATION PROJECT ON COST-EFFECTIVENESS OF REIMBURSEMENT FOR PHARMACISTS' COGNITIVE SERVICES.—

(A) The Secretary of Health and Human Services shall conduct a demonstration project to evaluate the impact on quality of care and cost-effectiveness of paying pharmacists under title XIX of the Social Security Act, whether or not a drug is dispensed, for drug use review services. For this purpose, the Secretary shall provide for no fewer than 5 demonstration sites in different States and the participation of a significant number of pharmacists.

(B) Not later than January 1, 1995, the Secretary shall submit a report to the Congress on the results of the demonstration project conducted under subparagraph (A).

(d) STUDIES.—

(1) STUDY OF DRUG PURCHASING AND BILLING ACTIVITIES OF VARIOUS HEALTH CARE SYSTEMS.—

(A) The Comptroller General shall conduct a study of the drug purchasing and billing practices of hospitals, other institutional facilities, and managed care plans which provide covered outpatient drugs in the medicaid program. The study shall compare the ingredient costs of drugs for medicaid prescriptions to these facilities and plans and the charges billed to medical assistance programs by these facilities and plans compared to retail pharmacies.

(B) The study conducted under this subsection shall include an assessment of—

(i) the prices paid by these institutions for covered outpatient drugs compared to prices that would be paid under this section,

(ii) the quality of outpatient drug use review provided by these institutions as compared to drug use review required under this section, and

(iii) the efficiency of mechanisms used by these institutions for billing and receiving payment for covered outpatient drugs dispensed under this title.

(C) By not later than May 1, 1991, the Comptroller General shall report to the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the study conducted under subparagraph (A).

(2) REPORT ON DRUG PRICING.—By not later than May 1 of each year, the Comptroller General shall submit to the Secretary, the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and House of Representatives an annual report on changes in prices charged by manufacturers for prescription drugs to the Department of Veterans Affairs, other Federal programs, retail and hospital pharmacies, and other purchasing groups and managed care plans.

(3) STUDY ON PRIOR APPROVAL PROCEDURES.—

(A) The Secretary, acting in consultation with the Comptroller General, shall study prior approval procedures utilized by State medical assistance programs conducted under title XIX of the Social Security Act, including—

(i) the appeals provisions under such programs; and

(ii) the effects of such procedures on beneficiary and provider access to medications covered under such programs.

(B) By not later than December 31, 1991, the Secretary and the Comptroller General shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A) and shall make recommendations with respect to which procedures are appropriate or inappropriate to be utilized by State plans for medical assistance.

(4) STUDY ON REIMBURSEMENT RATES TO PHARMACISTS.—

(A) The Secretary shall conduct a study on (i) the adequacy of current reimbursement rates to pharmacists under each State medical assistance programs conducted under title XIX of the Social Security Act; and (ii) the extent to which reimbursement rates under such programs have an effect on beneficiary access to medications covered and pharmacy services under such programs.

(B) By not later than December 31, 1991, the Secretary shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A).

(5) STUDY OF PAYMENTS FOR VACCINES.—The Secretary of Health and Human Services shall undertake a study of the relationship between State medical assistance plans and Federal and State acquisition and reimbursement policies for vaccines and the accessibility of vaccinations and immunization to children provided under this title. The Secretary shall report to the Congress on the Study not later than one year after the date of the enactment of this Act.

(6) STUDY ON APPLICATION OF DISCOUNTING OF DRUGS UNDER MEDICARE.—The Comptroller General shall conduct a study examining methods to encourage providers of items and services under title XVIII of the Social Security Act to negotiate discounts with suppliers of prescription drugs to such providers. The Comptroller General shall submit to Congress a report on such study no later than 1 year after the date of enactment of this subsection.

PART II—PURCHASE OF PRIVATE INSURANCE

SEC. 6211. STATES REQUIRED TO PAY PREMIUMS, DEDUCTIBLES, AND COINSURANCE FOR PRIVATE HEALTH INSURANCE COVERAGE FOR MEDICAID BENEFICIARIES WHERE COST EFFECTIVE.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6201, is further amended—

(1) by striking "and" at the end of paragraph (53);

(2) by striking the period at the end of paragraph (54) and inserting "; and"; and

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

"(55) meet the requirements of section 1928 (relating to payment of premiums, deductibles, and coinsurance for private health insurance).".

(b) DESCRIPTION OF REQUIREMENT.—Title XIX (42 U.S.C. 1396 et seq.), as amended by section 6201, is further amended—

(1) by redesignating section 1928 as section 1929; and

(2) by inserting after section 1927 the following new section:

"PAYMENT OF PREMIUMS FOR PRIVATE HEALTH INSURANCE

"SEC. 1928. (a) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title shall provide that with respect to individuals eligible for medical assistance under this title that the State shall pay premiums, deductibles, and coinsurance for private health insurance policies (as defined in subsection (d)) on behalf of such individuals and, where appropriate, the individuals' family members, when it is cost effective to do so.

"(b) DETERMINATION OF COST EFFECTIVENESS.—The Secretary shall promulgate regulations providing criteria for determining cost effectiveness for purposes of this section. In promulgating regulations under this subsection the Secretary shall consider:

(1) the duration of the time period to be considered by States in determining cost effectiveness;

(2) whether States in determining cost effectiveness, may base such determination on individual circumstances or actuarial categories, and, if based on actuarial categories whether States should be permitted to categorize actuarial groups on the basis of diagnosis; and

(3) the circumstances under which States should pay premiums, deductibles, and coinsurance for non-medicaid eligible family members of individuals eligible for medical assistance under this title.

"(c) SCOPE OF COVERAGE.—Each State shall ensure that as part of its State plan approved under this title that where the State makes payments for premiums, deductibles, or coinsurance for private health insurance coverage on behalf of an individual who is eligible for medical assistance under this section, that if such private health coverage does not cover an item or service or does not cover an item or service to the same extent as such item or service is covered under the State plan approved under this title that the State shall provide under such State plan any additional benefits necessary to provide such individual with coverage as comprehensive in amount, duration, and scope as medical assistance provided under the State plan approved under this title.

"(d) PRIVATE HEALTH INSURANCE DEFINED.—For purposes of this section, the term 'private health insurance policy' includes employment-related health insurance, group health insurance, membership in private health maintenance organizations, or such other private health insurance as the Secretary may specify.".

(c) CONFORMING AMENDMENTS.—

(1) LIMITATION ON AMOUNT, DURATION, AND SCOPE OF BENEFITS MODIFIED.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (E)—

(A) by striking "and" at the end of subdivision (IX);

(B) by inserting "and" at the end of subdivision (X); and

(C) by adding at the end the following new subdivision:

"(XI) the making available of medical assistance to cover the costs of premiums, deductibles, and coinsurance for certain individuals for private health coverage as described in section 1928 shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of services of the same amount, duration, and scope of such private coverage to any other individuals;".

(2) PREMIUMS INCLUDED AS MEDICAL ASSISTANCE.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) premiums, deductibles, and coinsurance for private health insurance coverage where cost effective (as provided in section 1928); and".

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART III—LOW-INCOME ELDERLY

SEC. 6221. 1-YEAR ACCELERATION OF AND INCREASE IN OPTION AMOUNT FOR BUY-IN OF PREMIUMS AND COST SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) OPTION UP TO 133 PERCENT OF POVERTY LINE.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended by striking "100" and inserting "133".

(b) REQUIRED 1-YEAR ACCELERATION TO 100 PERCENT OF POVERTY LINE.—Section 1905(p)(2) (42 U.S.C. 1396d(p)(2)) is further amended—

(1) in subparagraph (B)—

(A) by adding "and" at the end of clause (ii);

(B) in clause (iii), by striking "95 percent, and" and inserting "100 percent."; and

(C) by striking clause (iv); and

(2) in subparagraph (C)—

(A) in clause (iii), by striking "90" and inserting "95";

(B) by adding "and" at the end of clause (iii);

(C) in clause (iv), by striking "95 percent, and" and inserting "100 percent."; and

(D) by striking clause (v).

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) and, except as provided in paragraph (2), the amendments made by subsection (b) shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6222. DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES IMPLEMENTED.

(a) IN GENERAL.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in subparagraph (B) of paragraph (1), by inserting ", except as provided in paragraph (2)(D) of this subsection," after "supplementary security income program"; and

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

"(D)(i) In making a determination or redetermination of income under this subsection for a transition month (as defined in clause (ii) of this subparagraph) for an individual who is eligible to receive insurance benefits under title II of this Act, such determination or redetermination shall exclude any amount of income attributable to a cost-of-living increase in the level of monthly insurance benefits under title II (as described in section 215(i)) received or anticipated to be received for that calendar year for which the determination or redetermination is made.

"(ii) For purposes of this subparagraph, the term 'transition month' means each month in a calendar year during a period beginning January 1 and ending the last day of the month in which the State agency implements the annual revision of the official poverty line (as described in subparagraph (A)) published during that calendar year.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations or redeterminations of income for months beginning on or after January 1, 1991.

PART IV—CHILD HEALTH

SEC. 6231. MEDICAID CHILD HEALTH PROVISIONS.

(a) PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(i)—

(i) by striking "or" at the end of subclause (V),

(ii) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(iii) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(B) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(C) in subsection (l)—

(i) in subparagraph (C) of paragraph (1) by inserting "children" after "(C)";

(ii) by striking subparagraph (D) of paragraph (1) and inserting the following:

"(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age,";

(iii) by striking subparagraph (C) of paragraph (2) and inserting the following:

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(iv) in paragraph (3) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)";

(v) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(vi) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)", and inserting "(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(D) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(2) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 19".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(i) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),", and

(ii) by inserting "1902(a)(10)(A)(i)(VII)," after "1902(a)(10)(A)(i)(VI),".

(B) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(4) EFFECTIVE DATE.—(A) The amendments made by this subsection apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(b) OPTIONAL COVERAGE OF CHILDREN WITH INCOME BELOW 185 PERCENT OF THE POVERTY LEVEL.—

(1) FLEXIBILITY ON INCOME LIMIT.—Section 1902, as amended by subsection (a) of this section, is amended—

(A) in subclauses (VI) and (VII) of subsection (a)(10)(A)(i), by inserting "minimum" before "income level";

(B) in subsection (l)(2)(B), by striking "133 percent" and inserting "a percentage (established by the State, which is not less than 133 percent and not more than 185 percent)"; and

(C) in subsection (l)(2)(C), by striking "100 percent" and inserting "a percentage (established by the State, which is not less than 100 percent and not more than 185 percent)".

(2) FLEXIBILITY ON AGE.—Section 1902(l)(1) of such Act is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by inserting "and" at the end of subparagraph (D), and

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

"(E) at the option of the State, children born after October 1, 1983, who have attained 6 years of age but have not attained 19 years of age or a lesser age as selected by the State,".

(3) EFFECTIVE DATE.—(A) The amendments made by this subsection shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c)(1) CONTINUOUS ELIGIBILITY FOR MEDICAID BENEFITS FOR A PERIOD OF 1 YEAR PROVIDED FOR INFANTS BORN TO MEDICAID ELIGIBLE WOMEN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended—

(A) in the first sentence, by striking "and the woman remains eligible for such assistance" and inserting "if the woman would have remained eligible for such assistance were it not for the termination of her pregnancy or post-partum period"; and

(B) in the second sentence—

(i) by striking "unless" and inserting "if"; and

(ii) by striking "expires" and inserting "expires no new application for such child shall be required".

(2) EFFECTIVE DATE.—(A) The amendment made by paragraph (1), shall become effective with respect to eligibility determinations for medical assistance under title XIX of the Social Security Act on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(d) ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(s) In order to meet the requirements of subsection (a)(54), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 19 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

"(2) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

"(3) not be limited by the imposition of dollar limits (other than such limits resulting from prospective payments as adjusted pursuant to paragraph (1)) with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged).".

(2) CONFORMING AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6211(a), is further amended—

(A) by striking "and" at the end of paragraph (54);

(B) by striking the period at the end of paragraph (55) and by inserting "; and"; and

(C) by inserting after paragraph (56) and before the end matter the following new paragraph:

"(56) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services.".

(3) PROHIBITION ON WAIVER.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the matter preceding paragraph (1) by inserting "(other than subsection (s))" after "Section 1902".

(4) EFFECTIVE DATE.—(A) The amendments made by this subsection shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART V—HOME AND COMMUNITY-BASED SERVICES

SEC. 6241. HOME AND COMMUNITY-BASED CARE AS OPTIONAL SERVICE.

(a) PROVISION AS OPTIONAL SERVICE.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 6201, is further amended—

(1) by striking "and" at the end of paragraph (22);

(2) by redesignating paragraph (23) as paragraph (24); and

(3) by inserting after paragraph (22) the following new paragraph:

"(23) home community care (to the extent allowed and as defined in section 1929) for functionally disabled elderly individuals; and".

(b) HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS.—Title XIX (42 U.S.C. 1396 et seq.) as amended by section 6211 is further amended—

(1) by redesignating section 1929 as section 1930; and

(2) by inserting after section 1928 the following new section:

"HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS

"SEC. 1929. (a) HOME AND COMMUNITY CARE DEFINED.—In this title, the term 'home and community care' means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, furnished in accordance with an individual community care plan (established and periodically reviewed and revised by a qualified community care case manager under subsection (d)):

"(1) Homemaker/home health aide services.

"(2) Chore services.

"(3) Personal care services.

"(4) Nursing care services provided by, or under the supervision of, a registered nurse.

"(5) Respite care.

"(6) Training for family members in managing the individual.

"(7) Adult day health services.

"(8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).

"(9) Such other home and community-based services (other than room and board) as the Secretary may approve.

"(b) FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL DEFINED.—

"(1) IN GENERAL.—In this title, the term 'functionally disabled elderly individual' means an individual who—

"(A) is 65 years of age or older,

"(B) is determined to be a functionally disabled individual under subsection (c), and

"(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2)), is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI) or, at the option of the State, is described in section 1902(a)(10)(C).

"(2) TREATMENT OF CERTAIN INDIVIDUALS PREVIOUSLY COVERED UNDER A WAIVER.—(A) In the case of a State which—

"(i) at the time of its election to provide coverage for home and community care under this section has a waiver approved under section 1915(c) or 1915(d) with re-

spect to individuals 65 years of age or older, and

"(ii) subsequently discontinues such waiver, individuals who were eligible for benefits under the waiver as of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for home and community care under the plan shall, notwithstanding any other provision of this title, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

"(B) In the case of a State which, as of December 31, 1990, had in effect a waiver under section 1115 that provides under the State plan under this title for personal care services for functionally disabled individuals, the term 'functionally disabled elderly individual' may include, at the option of the State, an individual who—

"(i) is 65 years of age or older or is disabled (as determined under the supplemental security income program under title XVI);

"(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

"(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1902(a)(10)(A)(ii)(V).

"(3) USE OF PROJECTED INCOME.—In applying section 1903(f)(1) in determining the eligibility of an individual (described in section 1902(a)(10)(C)) for medical assistance for home and community care, a State may, at its option, provide for the determination of the individual's anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

"(c) DETERMINATIONS OF FUNCTIONAL DISABILITY.—

"(1) IN GENERAL.—In this section, an individual is 'functionally disabled' if the individual—

"(A) is unable to perform without substantial assistance from another individual at least 2 of the following 3 activities of daily living: toileting, transferring, and eating; or

"(B) has a primary or secondary diagnosis of Alzheimer's disease and is (i) unable to perform without substantial human assistance (including verbal reminding or physical cueing) or supervision at least 2 of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating; or (ii) cognitively impaired so as to require substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself or others.

"(2) ASSESSMENTS OF FUNCTIONAL DISABILITY.—

"(A) REQUESTS FOR ASSESSMENTS.—If a State has elected to provide home and community care under this section, upon the request of an individual who is 65 years of age or older and who meets the requirements of subsection (b)(1)(C) (or another person on such individual's behalf), the State shall provide for a comprehensive functional assessment under this subparagraph which—

"(i) is used to determine whether or not the individual is functionally disabled,

"(ii) is based on a uniform minimum data set specified by the Secretary under subparagraph (C)(i), and

"(iii) uses an instrument which has been specified by the State under subparagraph (B).

No fee may be charged for such an assessment.

"(B) SPECIFICATION OF ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used in the State in complying with the requirement of subparagraph (A)(iii) which instrument shall be—

"(i) one of the instruments designated under subparagraph (C)(ii); or

"(ii) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary in subparagraph (C)(i).

"(C) SPECIFICATION OF ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(i) not later than July 1, 1991—

"(I) specify a minimum data set of core elements and common definitions for use in conducting the assessments required under subparagraph (A); and

"(II) establish guidelines for use of the data set; and

"(ii) by not later than July 1, 1991, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subparagraph (B) for use in complying with the requirements of subparagraph (A).

"(D) PERIODIC REVIEW.—Each individual who qualifies as a functionally disabled elderly individual shall have the individual's assessment periodically reviewed and revised not less often than once every 12 months.

"(E) CONDUCT OF ASSESSMENT BY INTERDISCIPLINARY TEAMS.—An assessment under subparagraph (A) and a review under subparagraph (D) must be conducted by an interdisciplinary team designated by the State. The Secretary shall permit a State to provide for assessments and reviews through teams under contracts—

"(i) with public organizations; or

"(ii) with nonpublic organizations which do not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services.

"(F) CONTENTS OF ASSESSMENT.—The interdisciplinary team must—

"(i) identify in each such assessment or review each individual's functional disabilities and need for home and community care, including information about the individual's health status, home and community environment, and informal support system; and

"(ii) based on such assessment or review, determine whether the individual is (or continues to be) functionally disabled.

The results of such an assessment or review shall be used in establishing, reviewing, and revising the individual's ICCP under subsection (d)(1).

"(G) APPEAL PROCEDURES.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (F).

"(d) INDIVIDUAL COMMUNITY CARE PLAN (ICCP).—

"(1) INDIVIDUAL COMMUNITY CARE PLAN DEFINED.—In this section, the terms 'individual community care plan' and 'ICCP' mean, with respect to a functionally disabled elderly individual, a written plan which—

"(A) is established, and is periodically reviewed and revised, by a qualified case manager after a face-to-face interview with the individual or primary caregiver and based upon the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

"(B) specifies, within any amount, duration, and scope limitations imposed on home and community care provided under the State plan, the home and community care to be provided to such individual under the plan, and indicates the individual's preferences for the types and providers of services; and

"(C) may specify other services required by such individual.

An ICCP may also designate the specific providers (qualified to provide home and community care under the State plan) which will provide the home and community care described in subparagraph (B).

"(2) QUALIFIED CASE MANAGEMENT ENTITY DEFINED.—In this section, the term 'qualified case management entity' means a nonprofit or public agency or organization which—

"(A) has experience or has been trained in establishing, and in periodically reviewing and revising, individual community care plans and in the provision of case management services to the elderly;

"(B) is responsible for (i) assuring that home and community care covered under the State plan and specified in the ICCP is being provided, (ii) visiting each individual's home or community setting where care is being provided not less often than once every 90 days, and (iii) informing the elderly individual or primary caregiver on how to contact the case manager if service providers fail to properly provide services or other similar problems occur;

"(C) in the case of a nonpublic agency, does not provide home and community care or nursing facility services and does not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, home and community care or nursing facility services;

"(D) has procedures for assuring the quality of case management services that includes a peer review process;

"(E) completes the ICCP in a timely manner and reviews and discusses new and revised ICCPs with elderly individuals or primary caregivers; and

"(F) meets such other standards, established by the Secretary, as to assure that—

"(i) such a manager is competent to perform case management functions;

"(ii) individuals whose home and community care they manage are not at risk of financial exploitation due to such a manager; and

"(iii) meets such other standards as the State may establish.

"(3) APPEALS PROCESS.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals who disagree with the ICCP established.

"(e) CEILING ON PAYMENT AMOUNTS AND MAINTENANCE OF EFFORT.—

"(1) CEILING ON PAYMENT AMOUNTS.—Payments may not be made under section 1903(a) to a State for home and community care provided under this section in a quarter to the extent that the medical assistance for such care in the quarter exceeds 50 percent of the product of—

"(A) the average number of individuals in the quarter receiving such care under this section;

"(B) the average per diem rate of payment which the Secretary has determined (before the beginning of the quarter) will be payable under title XVIII (without regard to coinsurance) for extended care services to be provided in the State during such quarter; and

"(C) the number of days in such quarter.

"(2) MAINTENANCE OF EFFORT.—

"(A) ANNUAL REPORTS.—As a condition for the receipt of payment under section 1903(a) with respect to medical assistance provided by a State for home and community care, the State shall report to the Secretary, with respect to each Federal fiscal year (begin-

ning with fiscal year 1990) and in a format developed or approved by the Secretary, the amount of funds obligated by the State (including funds obligated by localities in the State) with respect to the provision of home and community care to the elderly in that fiscal year.

"(B) REDUCTION IN PAYMENT IF FAILURE TO MAINTAIN EFFORT.—If the amount reported under subparagraph (A) by a State with respect to a fiscal year is less than the amount reported under subparagraph (A) with respect to fiscal year 1989, the Secretary shall provide for a reduction in payments to the State under section 1903(a) in an amount equal to the difference between the amounts so reported.

"(f) MINIMUM REQUIREMENTS FOR HOME AND COMMUNITY CARE.—

"(1) REQUIREMENTS.—Home and Community care provided under this section must meet such requirements for individuals' rights and quality as are published or developed by the Secretary under subsection (k). Such requirements shall include—

"(A) the requirement that individuals providing care are competent to provide such care; and

"(B) the rights specified in paragraph (2).

"(2) SPECIFIED RIGHTS.—The rights specified in this paragraph are as follows:

"(A) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care. In cases of incompetence, these same rights shall apply to the primary caregiver or family member.

"(B) The right to voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances, and to be told how to complain to State and local authorities.

"(C) The right to confidentiality of personal and clinical records.

"(D) The right to privacy and to have one's property treated with respect.

"(E) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

"(F) The right to education or training for oneself and for members of one's family or household on the management of care.

"(G) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's ICCP.

"(H) The right to be fully informed orally and in writing of the individual's rights.

"(I) Any other rights established by the Secretary.

"(g) MINIMUM REQUIREMENTS FOR SMALL COMMUNITY CARE SETTINGS.—

"(1) SMALL COMMUNITY CARE SETTINGS DEFINED.—In this section, the term 'small community care setting' means—

"(A) a nonresidential setting that serves more than 2 and less than 8 individuals; or

"(B) a residential setting in which more than 2 and less than 8 unrelated adults reside and in which personal services (other than merely board) are provided in conjunction with residing in the setting.

"(2) MINIMUM REQUIREMENTS.—A small community care setting in which community care is provided under this section must—

"(A) meet such requirements as are published or developed by the Secretary under subsection (k);

"(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

"(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting;

"(D) meet any applicable State or local requirements regarding certification or licensure;

"(E) meet any applicable State and local zoning, building, and housing codes, and State and local fire and safety regulations; and

"(F) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents.

"(h) MINIMUM REQUIREMENTS FOR LARGE COMMUNITY CARE SETTINGS.—

"(1) LARGE COMMUNITY CARE SETTING DEFINED.—In this section, the term 'large community care setting' means—

"(A) a nonresidential setting in which more than 8 individuals are served; or

"(B) a residential setting in which more than 8 unrelated adults reside and in which personal services are provided in conjunction with residing in the setting in which home and community care under this section is provided.

"(2) MINIMUM REQUIREMENTS.—A large community care setting in which community care is provided under this section must—

"(A) meet such requirements as are published or developed by the Secretary under subsection (k);

"(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

"(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives home and community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting; and

"(D) meet the requirements of paragraphs (2) and (3) of section 1919(d) (relating to administration and other matters) in the same manner as such requirements apply to nursing facilities under such section; except that, in applying the requirement of section 1919(d)(2) (relating to life safety code), the Secretary shall provide for the application of such life safety requirements (if any) that are appropriate to the setting.

"(3) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—A community care setting—

"(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting; and

"(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

"(i) SURVEY AND CERTIFICATION PROCESS.—

"(1) CERTIFICATIONS.—

"(A) RESPONSIBILITIES OF THE STATE.—Under each State plan under this title, the State shall be responsible for certifying the compliance of providers of home and community care and community care settings with the applicable requirements of subsections (f), (g) and (h). The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(B) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of home and community care, and of State community care settings in which such care is provided, with the requirements of subsections (f), (g) and (h).

"(C) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

"(2) REVIEWS OF PROVIDERS.—

"(A) IN GENERAL.—The certification under this subsection with respect to a provider of home or community care must be based on a periodic review of the provider's performance in providing the care required under ICCP's in accordance with the requirements of subsection (f).

"(B) SPECIAL REVIEWS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a provider of home or community care with any of the requirements of subsection (f), the Secretary may conduct a review of the provider and, on the basis of that review, make independent and binding determinations concerning the extent to which the provider meets such requirements.

"(3) SURVEYS OF COMMUNITY CARE SETTINGS.—

"(A) IN GENERAL.—The certification under this subsection with respect to community care settings must be based on a survey. Such survey for such a setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a community care setting of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conducting such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (k).

"(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the community care setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsection (g) or (h) or who has a personal or familial financial interest in the setting being surveyed.

"(D) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a community care setting with any of the requirements of subsection (g) or (h), the Secretary may conduct a survey of the setting and, on the basis of that survey, make independent and binding determinations concerning the extent to which the setting meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING OF PROVIDERS AND SETTINGS.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements imposed on providers of community care or on community care settings under subsections (f), (g) and (h).

"(5) INVESTIGATION OF ALLEGATIONS OF INDIVIDUAL NEGLECT AND ABUSE AND MISAPPROPRIATION OF INDIVIDUAL PROPERTY.—The State shall provide, through the agency responsi-

ble for surveys and certification of providers of home or community care and community care settings under this subsection, for a process for the receipt, review, and investigation of allegations of individual neglect and abuse (including injuries of unknown source) by personnel providing such care or in such setting and of misappropriation of individual property by such personnel. Such process shall provide for documentation of findings relating to such allegations with respect to an individual, for inclusion of any brief statement of the individual disputing such findings, and for inclusion, in any disclosure of such findings, of such brief statement (or of a clear and accurate summary thereof).

"(6) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers of home or community care and community care settings, including statements of deficiencies,

"(ii) copies of cost reports (if any) of such providers and settings filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICES OF SUBSTANDARD CARE.—If a State finds that—

"(i) a provider of home or community care has provided care of substandard quality with respect to an individual, the State shall make a reasonable effort to notify promptly (I) an immediate family member of each such individual and (II) individuals receiving home or community care from that provider under this title, or

"(ii) a community care setting is substandard, the State shall make a reasonable effort to notify promptly (I) individuals receiving community care in that setting, and (II) immediate family members of such individuals.

"(C) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

"(j) ENFORCEMENT PROCESS FOR PROVIDERS OF COMMUNITY CARE.—

"(1) STATE AUTHORITY.—

"(A) IN GENERAL.—If a State finds, on the basis of a review under subsection (i)(2) or otherwise, that a provider of home or community care no longer meets the requirements of this section, the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty. Nothing in this subparagraph shall be construed as restricting the remedies available to a State to remedy a provider's deficiencies. If the State finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A) for the period during which it finds that the provider was not in compliance with such requirements.

"(B) CIVIL MONEY PENALTY.—

"(i) IN GENERAL.—Each State shall establish by law (whether statute or regulation) at least the following remedy: A civil money penalty assessed and collected, with interest, for each day in which the provider is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty under subsection (i)(3)(A)) may be applied to reimbursement of individuals for personal funds lost due to a failure of home or community care providers to meet the requirements of this section. The State also shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(ii) DEADLINE AND GUIDANCE.—Each State which elects to provide home and community care under this section must establish the civil money penalty remedy described in clause (i) applicable to all providers of community care covered under this section. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedy; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedy.

"(2) SECRETARIAL AUTHORITY.—

"(A) FOR STATE PROVIDERS.—With respect to a State provider of home or community care, the Secretary shall have the authority and duties of a State under this subsection, except that the civil money penalty remedy described in subparagraph (C) shall be substituted for the civil money remedy described in paragraph (1)(B)(i).

"(B) OTHER PROVIDERS.—With respect to any other provider of home or community care in a State, if the Secretary finds that a provider no longer meets a requirement of this section, the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C). If the Secretary finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C) for the period during which the Secretary finds that the provider was not in compliance with such requirements.

"(C) CIVIL MONEY PENALTY.—If the Secretary finds on the basis of a review under subsection (i)(2) or otherwise that a home or community care provider no longer meets the requirements of this section, the Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(k) SECRETARIAL RESPONSIBILITIES.—

"(1) PUBLICATION OF INTERIM REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by December 1, 1991, a proposed regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of home and community care and for community care settings, including—

"(i) the requirements of subsection (c)(2) (relating to comprehensive functional assessments, including the use of assessment instruments), of subsection (d)(2)(E) (relating to qualifications for qualified case managers), of subsection (f) (relating to minimum requirements for home and community care), of subsection (g) (relating to minimum requirements for small community care settings), and of subsection (h) (relating to minimum requirements for large community care settings, and

"(ii) survey protocols (for use under subsection (i)(3)(A)) which relate to such requirements.

"(B) MINIMUM PROTECTIONS.—Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensure processes, that individuals receiving home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel in community care settings.

"(2) DEVELOPMENT OF FINAL REQUIREMENTS.—The Secretary shall develop, by not later than October 1, 1992—

"(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality home and community care and respecting community care settings under this section, and including at least the requirements referred to in paragraph (1)(A)(i), and

"(B) survey protocols and methods for evaluating and assuring the quality of community care settings.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

"(3) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

"(4) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

"(l) DEEMING AND WAIVER.—

"(1) DEEMING.—Area agencies on aging as defined in the Older Americans Act (Public Law 100-175) are considered public agencies for purposes of this section.

"(2) WAIVER.—

"(A) States may waive the requirement that a nonpublic agency not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facilities for nonprofit agencies located in an area that is not an urbanized area (as defined by the Bureau of the Census).

"(B) States may waive the requirement of section 1902(a)(1) (related to State wideness) for a program of home and community care under this section.

"(m) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—

"(1) AUTHORIZATION.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $10,000,000, for fiscal year 1992, $20,000,000, for fiscal year 1993, $40,000,000, for fiscal year 1994, $70,000,000, and for fiscal years thereafter such sums as provided by Congress.

"(2) ALLOCATION OF FUNDS.—The funds identified for each fiscal year (1991, 1992, 1993, 1994, and 1995) will be allocated to each State in the proportion of the amount of Federal expenditures made available to the State for fiscal year 1989 (as reported on line 6 of the four quarterly form HCFA-64 expenditure reports) to the sum of Federal expenditures for all States, excluding the territories.".

(c) PAYMENT FOR HOME AND COMMUNITY CARE.—

(1) REASONABLE AND ADEQUATE PAYMENT RATES.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(13)—

(i) by striking "and" at the end of subparagraph (D),

(ii) by inserting "and" at the end of subparagraph (E), and

(iii) by adding at the end the following new subparagraph:

"(F) for payment for home and community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards;"; and

(B) in subsection (h), by adding before the period at the end the following: "or to limit the amount of payment that may be made under a plan under this title for home and community care".

(2) DENIAL OF PAYMENT FOR CIVIL MONEY PENALTIES, ETC.—Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) is amended by inserting "(A)" after "medical assistance" and by inserting before the semicolon at the end the following: "or (B) for home and community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "(21)" and inserting "(22)".

(2) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking "through (20)" and inserting "through (21)".

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply to home and community care furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) The amendments made by subsection (c)(1) shall apply to home and community care furnished on or after July 1, 1991, or, if later, 30 days after the date of publication of interim regulations under section 1929(k)(1).

(B) The amendment made by subsection (c)(2) shall apply to civil money penalties imposed after the date of the enactment of this Act.

(f) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act.

SEC. 6242. COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.

(a) PROVISION AS OPTIONAL SERVICE.—Section 1905(a) (42 U.S.C. 1396d(a)) as amended by section 6211 (Home and Community Care) is further amended—

(1) by striking "and" at the end of paragraph (23);

(2) by redesignating paragraph (24) as paragraph (25); and

(3) by inserting after paragraph (23) the following new paragraph:

"(24) community supported living arrangements services (to the extent allowed and as defined in section 1930).".

(b) COMMUNITY SUPPORTED LIVING ARRANGEMENTS.—Title XIX (42 U.S.C. 1396 et seq.) as amended by section _____ (Home and Community Care) is further amended—

(1) by redesignating section 1930 as section 1931; and

(2) by inserting after section 1929 the following new section:

"COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES

"Sec. 1930. (a) COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.—In this title, the term 'community supported living arrangements services' means one or more of the following services provided in a State eligible to provide services under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living necessary to permit such individual to live in an integrated living environment (as defined in subsection (c)) furnished in a community supported living arrangement setting:

"(1) Personal assistance.

"(2) Training and habilitation services (necessary to assist the individual in achieving increased integration, independence and productivity).

"(3) 24-hour emergency assistance (as defined by the Secretary).

"(4) Assistive technology.

"(5) Adaptive equipment.

"(6) Other services (as approved by the Secretary, except those services described in subsection (g)).

"(b) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—In this title the term, 'developmentally disabled individual' means an individual who as defined by the Secretary is described within the term 'mental retardation and related conditions' as defined in regulations as in effect on July 1, 1990, and who is residing with the individual's family or legal guardian or in an integrated living environment (as defined in subsection (c)) in which no more than 3 other recipients of services under this section are residing and without regard to whether or not such individual is at risk of institutionalization (as defined by the Secretary).

"(c) INTEGRATED LIVING ENVIRONMENT DEFINED.—In this title the term 'integrated living environment' means an environment located in a neighborhood which—

"(1) is representative of residential neighborhoods in the community; and

"(2) is populated primarily by individuals other than a developmentally disabled individual (as defined in this section).

"(d) CRITERIA FOR SELECTION OF PARTICIPATING STATES.—The Secretary shall develop criteria to review the applications of States submitted under this section to provide community supported living arrangement services. The Secretary shall provide in such criteria that during the first 5 years of the provision of services under this section that no less than 4 and no more than 8 States shall be allowed to receive Federal financial participation for providing the services described in this section.

"(e) QUALITY ASSURANCE.—A State selected by the Secretary to provide services under this section shall in order to continue to receive Federal financial participation for providing services under this section be required to establish and maintain a quality assurance program, that provides that—

"(1) the State will certify and survey providers of services under this section (such surveys to be unannounced and average at least 1 a year);

"(2) the State will adopt standards for survey and certification that include—

"(A) minimum qualifications and training requirements for provider staff;

"(B) financial operating standards; and

"(C) a consumer grievance process;

"(3) the State will provide a system that allows for monitoring boards consisting of providers, family members, consumers, and neighbors; and

"(4) the State will establish reporting procedures to make available information to the public.

The Secretary shall not approve a quality assurance plan under this subsection and allow a State to continue to receive Federal financial participation under this section unless the State provides for public hearings on the plan prior to adoption and implementation of its plan under this subsection.

"(f) MAINTENANCE OF EFFORT.—States selected by the Secretary to receive Federal financial participation to provide services under this section shall maintain current levels of spending for such services in order to be eligible to continue to receive Federal financial participation for the provision of such services under this section.

"(g) EXCLUDED SERVICES.—No Federal financial participation shall be allowed for the provision of the following services under this section:

"(1) Room and board.

"(2) Cost of prevocational, vocational and supported employment.

"(h) WAIVER OF REQUIREMENTS.—The Secretary may waive such provisions of this title as necessary to carry out the provisions of this section including the following requirements of this title—

"(1) comparability of amount, duration, and scope of services;

"(2) statewideness; and

"(3) freedom of choice of providers.

"(i) TREATMENT OF FUNDS.—Any funds expended under this section for medical assistance shall be in addition to funds expended for any existing services covered under the State plan, including any waiver services for which an individual receiving services under this program is already eligible.

"(j) LIMITATION ON AMOUNTS OF EXPENDITURES AS MEDICAL ASSISTANCE.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $5,000,000, for fiscal year 1992, $10,000,000, for fiscal year 1993, $20,000,000, for fiscal year 1994, $35,000,000, and for fiscal years thereafter such sums as provided by Congress.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to community supported living arrangements services furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) APPLICATION PROCESS.—The Secretary of Health and Human Services shall provide that the applications required to be submitted by States under this section shall be received and approved prior to the effective date specified in paragraph (1).

SEC. 6243. MEDICAID COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME.

(a) IN GENERAL.—Section 1905(a)(7) (42 U.S.C. 1396d(a)(7)) is amended by striking "services" and inserting "services including personal care services (A) prescribed by a physician for an individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location, but not including such services furnished to an inpatient or resident of a nursing facility, such as adult day care settings or congregate living arrangements".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective with respect to home health care services provided on or after January 1, 1991 and

shall expire with respect and services provided on or after December 31, 1993.

PART VI—NURSING HOME REFORM

SEC. 6251. MEDICAID NURSING HOME REFORM PROVISIONS.

(a) NURSE AIDE TRAINING AMENDMENTS.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) PART-TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING.—Section 1919(b)(5)(A) (42 U.S.C. 1396r(b)(5)(A)) is amended—

(A) by striking ", temporary, per diem, or other";

(B) by inserting "(i)" after "(A)";

(C) by redesignating clauses "(i)" and "(ii)" as subclauses "(I)" and "(II)" respectively; and

(D) by adding at the end the following:

"(ii) EXCEPTION.—A nursing facility must not use on a temporary, per diem, or on any other than a full-time basis any individual as a nurse aide in the facility on or after January 1, 1991, unless the individual meets the requirements described in clause (i) (I) and (II).".

(3) EXTENSION OF ENHANCED MATCH RATE UNTIL OCTOBER 1, 1990.—Section 1903(a)(2)(B) (42 U.S.C. 1396b(a)(2)(B)) is amended by striking "July 1, 1990" and inserting "October 1, 1990".

(4) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING OF AIDES NOT YET EMPLOYED BY A FACILITY.—Section 1919(f)(2)(A)(iv)(II) (42 U.S.C. 1396r(f)(2)(A)(iv)(II)) is amended by striking "such program" and inserting "such program, except that an accredited, nonfacility based program may impose such charges on individuals who are not presently employed by a nursing facility or who have not yet had an offer for future employment at such a facility".

(5) REIMBURSEMENT TO CERTAIN INDIVIDUALS TRAINED PRIOR TO EMPLOYMENT.—Add to section 1919(f)(2)(A)(iv) a new subclause (III) as follows:

"(III) For individuals employed or under contract for employment as a nurse aide within 12 months after successful completion of a nonfacility-based, State-approved nurse aide training and competency evaluation program, the State must ensure that the costs incurred by such individuals for such programs are reimbursed to such individuals.

(6) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(7) NURSE AIDE REGISTRY.—

(A) IN GENERAL.—Section 1919(b)(5)(C) (42 U.S.C. 1396r(b)(5)(C)) is amended by adding at the end the following new sentence: "In the case of an individual who a nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual resided".

(B) DEEMED AIDES TO BE INCLUDED ON REGISTRY.—Section 1919(e)(2)(A) (42 U.S.C. 1396r(e)(2)(A)) is amended by striking "individuals" and inserting "individuals (including those individuals deemed under section 6901(b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 to have satisfied the training and competency evaluation program requirements under this section)".

(8) RETRAINING OF NURSE AIDES NOT EMPLOYED.—Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)) is amended by striking the period and inserting the following ", or a new competency evaluation program.".

(9) FACILITIES INELIGIBLE TO OFFER TRAINING PROGRAMS.—Section 1919(f)(2) (42 U.S.C. 1396(f)(2)) is amended—

(A) in subparagraph (B)(iii), by amending subclause (I) to read as follows:

"(I) offered by or in a nursing facility described in subparagraph (C), or"; and

(B) by adding after subparagraph (B) the following new subparagraph:

"(C) NURSING FACILITIES INELIGIBLE TO OFFER PROGRAMS.—A nursing facility shall be ineligible to offer a program under this paragraph—

"(i) if at any time on or after October 1, 1988, the State agency or the Secretary terminated or terminates the facility's provider agreement under this title or title XVIII, until after the end of a period of at least two years following reinstatement, during which period—

"(I) no survey or investigation finds any deficiencies warranting termination, and

"(II) at least one standard survey is conducted pursuant to subsection (g); or

"(ii) if the facility—

"(I) received a notice of termination of its provider agreement under this title or title XVIII from the State agency or the Secretary at any time during the one-year period ending September 30, 1990, or

"(II) is found, pursuant to a standard survey or investigation under subsection (g) or section 1819(g), to have deficiencies resulting in a civil money penalty in excess of $5,000, denial of payment, or appointment of temporary management pursuant to subsection (h)(2)(A) or to section 1819(h)(2)(B), until after the completion of a subsequent standard survey under subsection (g) which finds no such deficiencies.".

(b) PREADMISSION SCREENING AND RESIDENT REVIEW.—

(1) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(f), by adding at the end the following:

"A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).."; and

(B) in subsection (e)(7)(B), by adding at the end the following new clause:

"(iv) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(2) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS.—The Secretary shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(3) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before April 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994".

(4)(A) STATE REPORTS REQUIRED.—Section 1919(e)(7)(C) (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

(B) SUMMARY OF REPORTS.—Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act".

(5) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) (42 U.S.C. 1396r(e)(7)(G)(i)) is amended—

(A) by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health)",

(B) by inserting before the period "or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness".

(6) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) are each amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(7) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(B) in subsection (e)(7)(A)—

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(ii) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(c) FACILITY STAFFING.—

(1) STANDARDS FOR CERTAIN PROFESSIONAL SERVICES.—The Secretary shall conduct a study on the hiring and dismissal practices of nursing facilities with respect to social workers, dieticians, activities professionals, and medical records practitioners, and report to Congress by January 1, 1993, on whether facilities have on their staffs, persons with significantly different credentials as a result of new regulations that became effective October 1, 1990, and the impact of staff composition on quality of care.

(2) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICAID NURSE STAFFING WAIVERS.—Section 1919(b)(4)(C)(ii) (42 U.S.C. 1369r(b)(4)(C)(ii)) is amended—

(A) by striking "and" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and by inserting in lieu thereof a comma; and

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

"(IV) the State agency granting a waiver of such requirement provide notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies; and

"(V) a nursing facility that is granted such a waiver by a State is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.".

(3) STUDY ON STAFFING REQUIREMENTS IN NURSING FACILITIES.—The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for nursing facilities receiving payments under a State plan under title XIX of the Social Security Act. If the Secretary determines that the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(d) MISCELLANEOUS.—

(1) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is amended by striking "October 1, 1989" and inserting "April 1, 1991".

(2) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(c)(1)(A)(iv) (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and access to current clinical records of the resident promptly upon reasonable request (as defined by the Secretary) by the resident or resident's legal representative".

(3) OMBUDSMAN PROGRAM COORDINATION WITH STATE MEDICAID AND SURVEY AND CERTIFICATION AGENCIES.—Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) deleted and replaced with:

"(B) NOTICE TO OMBUDSMAN.—Each State agency with an agreement with the Secretary under this section shall enter into a written agreement with the Office of the State Long-Term Care Ombudsman (as defined by the Older Americans Act), to provide for information exchange, case referral, and prompt notification of the office of any adverse action to be taken against a nursing facility.".

(4) PERIOD FOR RESIDENT ASSESSMENT.—Section 1919(b)/3 (C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I) is amended by striking "4 days" and inserting "14 days".

(e) EFFECTIVE DATES.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section are effective on April 1, 1991.

(2) Paragraphs (1), (3), and (9) of subsection (a); paragraphs (2), (3), and (7) of subsection (b); paragraph (2) of subsection (c); and paragraphs (1) and (4) of subsection (d) are effective as if included in the Omnibus Budget Reconciliation Act of 1987.

(3) Subsections (b)(4), (c)(1), and (c)(3) are effective upon enactment.

PART VII—MISCELLANEOUS AND TECHNICAL PROVISIONS

SEC. 6261. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—(A) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with at least 3 and no more than 4 States for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medicaid benefits for certain low-income individuals.

(B) In entering into agreements with States under this section the Secretary shall provide that at least 1 and no more than 2 of the projects are conducted on a substate basis, and that such projects target areas which contain a high percentage of racial or ethnic minorities.

(2) REQUIREMENTS.—(A) The Secretary may not enter into an agreement with a State to conduct a project unless the Secretary determines that—

(i) the project can reasonably be expected to improve access to health insurance coverage for the uninsured;

(ii) with respect to projects for which the statewideness requirement has not been waived, the State provides, under its plan under title XIX of the Social Security Act, for eligibility for medical assistance for all individuals described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of section 1902(l) of such Act (based on the State's election of certain eligibility options the highest income standards and, based on the State's waiver of the application of any resource standard);

(iii) eligibility for benefits under the project is limited to individuals in families with income below 150 percent of the income official poverty line;

(iv) if the Secretary determines that it is cost-effective for the project to utilize employer coverage (as described in section 1925(b)(4)(D) of the Social Security Act), the project must require an employer contribution and benefits under the State plan under title XIX of such Act will continue to be made available to the extent they are not available under the employer coverage;

(v) the project provides for coverage of benefits consistent with subsection (b); and

(vi) the project only imposes premiums, coinsurance, and other cost-sharing consistent with subsection (c).

(B) The Secretary may waive the requirements of clause (ii) of this paragraph with respect to those projects described in subparagraph (B) of paragraph (1).

(3) PERMISSIBLE RESTRICTIONS.—A project may limit eligibility to individuals whose assets are valued below a level specified by the State. For this purpose, any evaluation of such assets shall be made in a manner consistent with the standards for valuation of assets under the State plan under title XIX of the Social Security Act for individuals entitled to assistance under part A of title IV of such Act. Nothing in this section shall be construed as requiring a State to provide for eligibility for individuals for months before the month in which such eligibility is first established.

(4) EXTENSION OF ELIGIBILITY.—A project may provide for extension of eligibility for medical assistance for individuals covered under the project in a mannor similar to that provided under section 1925 of the Social Security Act to certain families receiving aid pursuant to a plan of the State approved under part A of title IV of such Act.

(5) WAIVER OF REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may waive such requirements of title XIX of the Social Security Act as may be required to provide for additional coverage of individuals under projects under this section.

(B) NONWAIVABLE PROVISIONS.—Except with respect to those projects described in subparagraph (B) of paragraph (1), the Secretary may not waive, under subparagraph (A), the statewideness requirement of section 1902(a)(1) of the Social Security Act or the Federal medical assistance percentage specified in section 1905(b) of such Act.

(b) BENEFITS.—

(1) IN GENERAL.—Except as provided in this subsection, the amount, duration, and scope of medical assistance made available under a project shall be the same as the amount, duration, and scope of such assistance made available to individuals entitled to medical assistance under the State plan under section 1902(a)(10)(A)(i) of the Social Security Act.

(2) LIMITS ON BENEFITS.—

(A) REQUIRED.—Except with respect to those projects described in subparagraph (B) of paragraph (1), no medical assistance shall be made available under a project for nursing facility services or community-based long-term care services (as defined by the Secretary) or for pregnancy-related services. No medical assistance shall be made available under a project to individuals confined to a State correctional facility, county jail, local or county detention center, or other State institution.

(B) PERMISSIBLE.—A State, with the approval of the Secretary, may limit or otherwise deny eligibility for medical assistance under the project and may limit coverage of items and services under the project, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(3) USE OF UTILIZATION CONTROLS.—Nothing in this subsection shall be construed as limiting a State's authority to impose controls over utilization of services, including preadmission requirements, managed care provisions, use of preferred providers, and use of second opinions before surgical procedures.

(c) PREMIUMS AND COST-SHARING.—

(1) NONE FOR THOSE WITH INCOME BELOW THE POVERTY LINE.—Under a project, there shall be no premiums, coinsurance, or other cost-sharing for individuals whose family income level does not exceed 100 percent of the income official poverty line (as defined in subsection (g)(1)) applicable to a family of the size involved.

(2) LIMIT FOR THOSE WITH INCOME ABOVE THE POVERTY LINE.—Under a project, for individuals whose family income level exceeds 100 percent, but is less than 150 percent, of the income official poverty line applicable to a family of the size involved, the monthly average amount of premiums, coinsurance, and other cost-sharing for covered items and

services shall not exceed 3 percent of the family's average gross monthly earnings.

(3) INCOME DETERMINATION.—Each project shall provide for determinations of income in a manner consistent with the methodology used for determinations of income under title XIX of the Social Security Act for individuals entitled to benefits under part A of title IV of such Act.

(d) DURATION.—Each project under this section shall commence not later than July 1, 1991 and shall be conducted for a 3-year period; except that the Secretary may terminate such a project if the Secretary determines that the project is not in substantial compliance with the requirements of this section.

(e) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—(A) The Secretary in conducting projects shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than $12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994.

(B) Of the amounts appropriated under subparagraph (A), the Secretary shall provide that no more than one-third of such amounts shall be used to carry out the projects described in paragraph (1)(B) of subsection (a) (for which the statewideness requirement has been waived).

(2) NO FUNDING OF CURRENT BENEFICIARIES.—No funding shall be available under a project with respect to medical assistance provided to individuals who are otherwise eligible for medical assistance under the plan without regard to the project.

(3) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under a project with respect to expenditures made for medical assistance made available under the project may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(f) EVALUATION AND REPORT.—

(1) EVALUATIONS.—For each project the Secretary shall provide for an evaluation to determine the effect of the project with respect to—

(A) access to, and costs of, health care,

(B) private health care insurance coverage, and

(C) premiums and cost-sharing.

(2) REPORTS.—The Secretary shall prepare and submit to Congress an interim report on the status of the projects not later than January 1, 1993, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1995.

(g) DEFINITIONS.—In this section:

(1) The term "income official poverty line" means such line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(2) The term "project" refers to a demonstration project under subsection (a).

SEC. 6262. MEDICAID RESPITE DEMONSTRATION PROJECT EXTENDED.

Section 9414 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by amending subsection (e) to read as follows:

"(e) DURATION.—The project under this section may continue until September 30, 1992."; and

(2) in subsection (d), by striking the last sentence and inserting in lieu thereof the following new sentence: "For the period beginning October 1, 1990, and ending September 30, 1992, Federal payments for the project shall not exceed amounts expended under the project in the preceding fiscal year."

SEC. 6263. DEMONSTRATION PROJECT TO PROVIDE MEDICAID COVERAGE FOR HIV-POSITIVE INDIVIDUALS, AND CERTAIN PREGNANT WOMEN DETERMINED TO BE AT RISK OF CONTRACTING THE HIV VIRUS.

(a) IN GENERAL.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for 2 demonstration projects to be administered by States that submit an application under this section, through programs administered by the States under title XIX of the Social Security Act. Such demonstration projects shall provide coverage for the services described in subsection (c) to individuals—

(1) whose income and resources do not exceed the maximum allowable amount for eligibility for any individual in any category of disability under the State plan under section 1902 of the Social Security Act, and who have tested positive for the presence of HIV virus (without regard to the presence of any symptoms of AIDS or opportunistic diseases related to AIDS); or

(2) who are pregnant women with multiple medical and psychosocial needs who have not attained the age of 19, and are determined to be at risk of HIV infection because of substance abuse.

(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT.—(1) The medical assistance made available to individuals described in section 1902(a)(10)(A) of the Social Security Act shall be made available to individuals described in subsection (a) who receive services under a demonstration project under such paragraph.

(2) A demonstration project under subsection (a) shall provide services in addition to the services described in paragraph (1) which shall be limited only on the basis of medical necessity or the appropriateness of such services. To the extent not provided as described in paragraph (1), such additional services shall include—

(A) general and preventative medical care services (including inpatient, outpatient, residential and hospice care);

(B) prescription drugs, including drugs for the purposes of preventative health care services;

(C) counseling and social services;

(D) substance abuse treatment services (including services for multiple substances abusers);

(E) home care services (including assistance in carrying out activities of daily living);

(F) case management;

(G) health education services;

(H) respite care for caregivers; and

(I) dental services.

(c) AGREEMENTS WITH STATES.—(1) Each State conducting a demonstration project under subsection (a) shall enter into an agreement with hospitals submitting applications to the State, whereby the State shall agree to pay each such hospital for the services provided under subsection (b) and not later than 12 months after the commencement of a demonstration project, institute a system of monthly payment to each such hospital based on the average per capita cost of the services described in subsection (c) provided to individuals described in paragraphs (1) and (2) of subsection (a).

(2) A demonstration project described in subsection (a) shall be limited to an enrollment of not more than 200 individuals.

(3) A demonstration project conducted under subsection (a) shall commence not later than 9 months after the date of the enactment of this Act and shall terminate on the date that is 3 years after the date of commencement.

(d) FEDERAL SHARE OF COSTS.—The Federal share of the cost of services described in paragraph (3) furnished under a demonstration project conducted under paragraph (1) shall be determined by the otherwise applicable Federal matching assistance percentage pursuant to section 1905(b) of the Social Security Act.

(e) WAIVER OF REQUIREMENTS OF THE SOCIAL SECURITY ACT.—The Secretary may waive such requirements of the Social Security Act as the Secretary determines to be necessary to carry out the purposes of this section.

SEC. 6264. MENTAL HEALTH FACILITY CERTIFICATION DEMONSTRATION PROJECT.

(a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish, in consultation with the Council on Accreditation of Services for Families and Children, the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Association of Health Facilities Licensure and Certification Directors, the National Governors Association, the National Association of State Mental Health Program Directors, Protection and Advocacy Systems, organizations representing consumers and recipients of services under title XIX of the Social Security Act, and other interested parties, criteria for authorizing accrediting bodies to determine facility compliance with standards established or authorized under this title and conduct a 5-State, 3-year demonstration program in which certification to participate in the program may be granted to mental health facilities, as defined in subsection (e), based upon a finding by such accrediting bodies that a mental health facility is in compliance with standards established or authorized under title XIX of the Social Security Act.

(b)(1) Prior to initiating such demonstration program, the Secretary shall establish such criteria that ensure, at a minimum, that—

(A) in addition to routine accreditation reviews, there are annual unannounced visits to evaluate continued compliance with accreditation standards, and such accrediting body shall submit its report to appropriate Government agencies;

(B) the public and State licensure and certification officials have prompt access to all documents describing the findings of inspection by accreditation teams and confidential information pertaining to client or patient names has been deleted prior to release of these documents;

(C) health and safety deficiencies shall be fully documented and reported to State licensure and certification authorities immediately upon being discovered;

(D) complaints filed by recipients of covered services, their advocates, or the general public that may affect continued compliance with accreditation standards shall be investigated promptly by the accrediting body;

(E) complaints not related to accreditation standards and all complaints related to health and safety shall be reported to the appropriate State and local authorities in a timely manner;

(F) any changes in a facility's accreditation status shall be reported to State licensure and certification officials; and

(G) periodic unannounced inspections by State licensing and certification officials take place to evaluate compliance with conditions of participation in this title.

(2) The Secretary shall, in developing criteria, also address types of standards, reporting requirements, duration of accreditation, and other considerations.

(c) The Secretary shall publish proposed criteria developed pursuant to subsection (b) in the Federal Register not later than 9 months from the date of enactment of this section, and shall provide not more than 90 days for public comment on the proposed criteria.

(d) Not later than 180 days prior to termination of the demonstration program established in subsection (a), the Secretary shall submit a report to the Committee on Finance of the Senate evaluating the accreditation process, including—

(1) the extent to which—

(A) accrediting bodies and facilities have participated in the program;

(B) facilities have complied with standards;

(C) there has been an impact on care and access to services; and

(D) problems with, and prospects for, collaboration between accreditation bodies and State survey and certification officials where quality problems have been documented, and with respect to facilities where complaints have been filed by consumers or their advocates; and

(2) such recommendations as the Secretary deems appropriate.

(e) The term "mental health facilities", or "facility" shall mean for purposes of this demonstrative project only, a facility or part of a facility which provides, in an organized setting, outpatient mental health services, outpatient substance abuse and alcoholism services, residential treatment services for children, or day treatment services for children.

SEC. 6265. OPTIONAL STATE MEDICAID DISABILITY DETERMINATIONS INDEPENDENT OF THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) as amended by section 6201 is further amended by adding at the end the following new subsection:

"(t)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blindness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.".

(b) STUDY OF MEDICAID DISABILITY DEFINITION.—(1) The General Accounting Office shall conduct a study of the appropriateness of the use of the definition of disability and blindness (including the durational requirement) found in section 1614(a) of the Social Security Act for purposes of eligibility for medical assistance under title XIX of the Social Security Act.

(2) By no later than January 1, 1992, the GAO shall submit a report to Congress and to the Secretary of Health and Human Services on its study and shall include its recommendations, if any.

SEC. 6266. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN MEMBER FAMILIES.

(a) IN GENERAL.—For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made before, on, or after the date of the enactment of this Act, a State described in subparagraph (B) may use, in determining the "highest amount which would ordinarily be paid to a family of the same size" (under the State's plan approved under part A of title IV of such Act) in the case of a family consisting only of one individual and without regard to whether or not such plan provides for aid to families consisting only of one individual, an amount reasonably related to the highest money payment which would ordinarily be made under such a plan to a family of two without income or resources.

(b) STATES COVERED.—Subparagraph (A) shall only apply to a State the State plan of which (under title XIX of the Social Security Act) as of June 1, 1989, provided for the policy described in such subparagraph. For purposes of the previous sentence, a State plan includes all the matter included in a State plan under section 2373(c)(5) of the Deficit Reduction Act of 1984 (as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987).

SEC. 6267. MEDICAID SPENDDOWN OPTION.

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)) is amended by—

(1) inserting "(A)" after "(2)"; and

(2) by adding before the period at the end the following: "or, (B) at State option, an amount paid by such family, at the family's option, to the State, provided that the amount, when combined with prior months' incurred bills, is sufficient to meet the applicable income limitation described in paragraph (1). The amount of State expenditures for which Federal medical assistance payments is available under subsection (a)(1) will be reduced by amounts collected pursuant to this subparagraph."

SEC. 6268. LIMITATION ON DISALLOWANCES OR DEFERRAL OF FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21.

(a) IN GENERAL.—(1) If the Secretary of Health and Human Services makes a determination that a psychiatric facility has failed to comply with certification of need requirements for inpatient psychiatric hospital services for individuals under age 21 pursuant to section 1905(h) of the Social Security Act, and such determination has not been subject to a final judicial decision, any disallowance or deferral of Federal financial participation under such Act based on such determination shall only apply to the period of time beginning with the first day of noncompliance and ending with the date by which the psychiatric facility develops documentation (using plan of care or utilization review procedures) of the need for inpatient care with respect to such individuals.

(2) Any disallowance of Federal financial participation under title XIX of the Social Security Act relating to the failure of a psychiatric facility to comply with certification of need requirements—

(A) shall not exceed 25 percent of the amount of Federal financial participation for the period described in paragraph (1); and

(B) shall not apply to any fiscal year before the fiscal year that is 3 years before the fiscal year in which the determination of noncompliance described in paragraph (1) is made.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to disallowance actions that are pending or for which there has not been a final judicial decision as of the date of the enactment of this Act.

SEC. 6269. 5-YEAR EXTENSION OF CERTAIN WAIVER.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988 is amended by striking "1991" and inserting "1996".

(b) CONFORMING AMENDMENT.—Section 1903(m)(6)(A) (42 U.S.C. 1396b(m)(6)(A)) is amended by striking "State of New Jersey" and inserting "States of New Jersey and Minnesota".

SEC. 6270. MEDICAID LONG-TERM CARE INSURANCE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for a demonstration project in the States of Indiana, Illinois, Wisconsin, Oregon, California, Connecticut, Massachusetts, Missouri, New York, and New Jersey. Such project shall allow individuals with income and resources above eligibility levels for receipt of medical assistance under title XIX of the Social Security Act to receive long-term care benefits under the State plan for medical assistance under such Act if such an individual purchases a State approved long-term care insurance policy covering long-term care for a period preceding such an individual's eligibility for medical assistance under title XIX of the Social Security Act.

(b) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary in providing for the demonstration project described in subsection (a), may waive the following requirements in title XIX of the Social Security Act with respect to such projects.

(1) Sections 1901, 1902(a)(10) (A) and (C), 1903(a)(1), and 1903(f), relating to categorical and income eligibility limits.

(2) Sections 1902(a)(10) (A) and (D), relating to amount, duration, and scope of services; and to diagnosis, type of illness, or condition.

(3) Section 1902(a)(10)(E), relating to qualified medicaid beneficiaries.

(4) Section 1902(a)(23), relating to freedom of choice.

(5) Section 1902(a)(1), relating to statewideness.

(6) Sections 1902(a)(10), matter following (E) and 1902(a)(17), relating to comparability.

(7) Section 1902(a)(14), relating to premiums.

(8) Section 1902(a)(18), relating to liens and recovery of assets.

(9) Sections 1902(50) and (51), relating to personal needs allowance, protection community spouse, and transfer of assets.

(c) STATE ASSURANCES.—The States conducting demonstration projects under this section shall provide asssurances to the Secretary that—

(1) the estimated average per capita and aggregate expenditures for long-term care services for individuals under the waiver will not exceed estimated average per capita and aggregate expenditures for such services for such individuals under the State plan in the absence of the waiver;

(2) it will continue to make long-term care services available under the plan to any individual who would be entitled to long-term care services under the plan as in effect before the waiver (except to the extent that subsequent Federal legislation specifically requires changes in eligibility for such services under the plan);

(3) it will not approve a long-term care insurance policy unless it meets standards at least as stringent as those set forth in the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Act as of June 1989; and

(4) expenditures for long-term care services provided to individuals participating in the projects after the expiration of the projects shall be shared by the State and Federal governments in accordance with title XIX formulae in force at the time.

(d) APPLICATION, DURATION, AND ELIGIBILITY.—

(1) The Secretary shall enter into an agreement with the States described in subsection (a) for the purpose of conducting demonstration projects as described in this section.

The Secretary shall award such demonstrations in a budget neutral manner.

(2) The Secretary shall either approve or disapprove the application of the State to participate in a demonstration project described in this section within 90 days of receipt of such application. If the Secretary disapproves an application of a State described in subsection (a) to conduct a demonstration project under this section, the Secretary shall within 30 days of such disapproval notify the State of the reasons for such disapproval and allow the State to correct any deficiencies and allow the State to resubmit a corrected application which the Secretary shall approve if it meets the requirements of this section.

(3) The demonstration project under this section shall be for an initial period of 5 years. The Secretary shall provide for renewal of those demonstration projects for an additional 5 years which the Secretary determines have met the requirements of this section.

(4) An individual who participates in a demonstration project under this section shall remain eligible for long-term care services under the State plan after the expiration of such project.

(e) ANNUAL STATE REPORTS.—The States shall annually (during the duration of such projects) report to the Secretary on—

(1) the number of individuals enrolled in the demonstration projects in such States;

(2) the number of enrollees actually receiving long-term care services under such demonstration projects (whether through long-term care insurance or medical assistance under title XIX of the Social Security Act);

(3) the number of enrollees actually receiving long-term care in the form of medical assistance; and

(4) the number and type (commercial, not for profit and HMO) characteristics of private insurers with policies approved by the States under the demonstration projects.

(f) SECRETARY'S REPORT.—The Secretary shall report to Congress on the demonstration project established under this section not later than 4 years after the date of enactment of this section. Such report shall summarize and analyze information reported by the State under subsection (e), and shall evaluate the cost effectiveness of the demonstration project and make recommendations with respect to the desirability and appropriateness of authorizing any State to make long-term care services available on a similar basis.

SEC. 6271. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

Section 1905(a) of the Social Security Act is amended by adding at the end the following new sentence: "No service (including counseling) shall be excluded from the definition of 'medical assistance' solely because it is provided as a treatment service for alcoholism or drug dependency.".

SEC. 6272. HOME AND COMMUNITY-BASED WAIVERS.

(a) TREATMENT OF ROOM AND BOARD.—Subsections (c)(1) and (d)(1) of section 1915 of the Social Security Act (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(b) TREATMENT OF DECERTIFIED FACILITIES.—Notwithstanding any other provision of law, an intermediate care facility for the mentally retarded that has been decertified or excluded from participation in the medical assistance program established under title XIX of the Social Security Act shall be treated as a facility providing care "the cost of which could be reimbursed" under a State plan for purposes of determining whether to approve a waiver under section 1915(c)(1) of such Act and whether an individual is eligible for care under such a waiver.

(c) ADJUSTMENT TO 1915(d) CEILING TO TAKE INTO ACCOUNT THE ADDED COSTS OF OBRA 87.—Section 1915(d)(5)(B)(iv) (42 U.S.C. 1396n(d)(5)(B)(iv)) is amended by striking "this title" the first place it appears and inserting "this title whose provisions become effective on or after such date".

(d) CHANGES TO FREEDOM OF CHOICE WAIVERS.—Section 1915(c)(3) and (d)(3) (42 U.S.C. 1396n(c)(3) and (d)(3)) are each amended—

(1) by striking "and section" and inserting "section"; and

(2) by inserting after "community)", "and the requirements of section 1902(a)(23) (relating to restricting the recipient's choice of providers), insofar as such requirements relate to the provision of case management services, where the State provides assurances satisfactory to the Secretary that such a restriction will not substantially limit the recipient's access to such services".

SEC. 6273. MEDICAID PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

(a) PHYSICIAN INCENTIVE PAYMENTS.—Section 1903(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(C)(i) If an organization with a contract under section 1903(m) knowingly makes a direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient, the organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $25,000 for each determination.

"(ii) The provisions of section 1876(i)(8) shall apply to health maintenance organizations with a contract under this subsection in the same manner and to the same extent as to health maintenance organizations with a contract under section 1876.".

(b) MEDICAID ENROLLMENT WAIVER.—

(1) GENERAL WAIVER AUTHORITY.—The Secretary shall approve waivers of the 75 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) after the Secretary provides for—

(A) a study of situations where the 75-25 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) is not practical or where alternative safeguards or procedures to private enrollment and oversight could be used to assure that prepaid health care organizations provide quality care and are fiscally sound;

(B) publication in the Federal Register by April 1, 1991, for review and comment a set of minimum standards that prepaid organizations must meet to be considered eligible for the waiver described in this paragraph and the terms under which such waivers will be approved; and

(C) publication of revised standards and terms as a final notice.

(2) TERM OF AND RENEWAL OF WAIVERS.—A waiver under this section shall initially be approved for three years; the Secretary shall provide terms for the renewal of such waivers.

SEC. 6274. STATE FLEXIBILITY IN IDENTIFYING AND PAYING DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923(b)(1) (42 U.S.C. 1396r-4(b)(1)) is amended by—

(1) striking the period at the end of subparagraph (B) and inserting "or instead of (A) or (B)"; and

(2) adding after subparagraph (B) the following new subparagraph:

"(C) the hospital meets other criteria specified by the State which identify hospitals serving a disproportionate number of low income patients with special needs, so long as all hospitals determined to be disproportionate share hospitals include, at the State's option, hospitals which meet one of the following—

"(i) the conditions specified in subparagraph (A) or (B); or

"(ii) any criteria specified in an amendment to the State plan which was submitted to and approved by the Secretary prior to May 1, 1989.".

(b) DIFFERENT PAYMENT LEVELS.—Section 1923 (42 U.S.C. 1396r-4) is amended in the matter following subsection (c) by adding after the last sentence the following: "Nothing in this section shall prohibit a State from establishing different payment adjustments for different types of hospitals that are defined or deemed to be disproportionate share hospitals provided that the amount of each payment adjustment is reasonably related to the costs or proportion of services provided to medicaid or low-income patients, and that either—

"(A) the amount of each payment adjusted is equal to or greater than the minimum adjustment amount as specified in subsection (c); or

"(B) the aggregate amount of payment adjustments under the plan for disproportionate share hospitals (as defined under a State plan approved by the Secretary prior to December 22, 1987) is not less than the aggregate amount of payment adjustments otherwise required to be made if paragraph (1) or (2) of subsection (c) applied.".

(c) CONFORMING AMENDMENT.—Section 1923(c)(2) (42 U.S.C. 1396r-4(c)(2)) is amended by inserting after "State" "or the hospital's low-income utilization rate (as defined in paragraph (b)(3))".

SEC. 6275. EXTENSION OF PROVISION ON VOLUNTARY CONTRIBUTIONS AND PROVIDER-SPECIFIC TAXES.

Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "December 31, 1990" and inserting "September 30, 1991".

SEC. 6276. PROHIBITION ON WAIVING REASONABLE AND ADEQUATE PAYMENT RATES.

(a) IN GENERAL.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the matter preceding paragraph (1) by inserting "(other than subsection (a)(13)(A))" after "section 1902".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to calendar quarters beginning on or after January 1, 1991.

Subtitle D—Trade Provisions

PART I—CUSTOMS USER FEES

SEC. 6301. CUSTOMS USER FEES.

(a) EXTENSION OF EFFECTIVE PERIOD FOR FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

(b) ADJUSTMENT OF FEES.—Paragraph (9) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) is amended to read as follows:

"(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.17 percent ad valorem, unless adjusted under subparagraph (B).

"(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) for merchandise that is formally entered or released during any fiscal year beginning after September 30, 1991, to an ad valorem rate (but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during that fiscal year.

"(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under section 613A of the Tariff Act of 1930 with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

"(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

"(I) not later than 30 days after the date of the enactment of the Act providing regular appropriations for the Customs Service for that fiscal year, publishes a notice of intent to adjust the fees under this paragraph and the amount of such adjustment;

"(II) provides a period of not less than 30 days for public comment following publication of the notice described in subclause (I);

"(III) during the 30-day period beginning after the date of the publication of the notice described in subclause (I), consults with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment; and

"(IV) no earlier than the expiration of the 30-day public comment period and the 30-day consultation period, publishes in the Federal Register notice of the final determination regarding the adjustment of fees.

"(iv) The 30 days referred to in clause (iii)(III) shall be computed by excluding—

"(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

"(v) An adjustment made under this subparagraph is effective with respect to formal entries and releases made on or after the 5th calendar day after the date of publication of the notice required under clause (iii)(IV) and before the first day of the next fiscal year.

"(vi) Any fee charged under this paragraph, whether or not adjusted under this subparagraph, is subject to the limitations in subsection (b)(8)(A).".

(c) AGGREGATION OF MERCHANDISE PROCESSING FEES.—Section 111(f)(1)(B) of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "determined in" and inserting "currently in effect under".

(d) CUSTOMS SERVICE ADMINISTRATION.—Section 113 of the Customs and Trade Act of 1990 is amended—

(1) by inserting "and" after the semicolon at the end of subsection (a)(1);

(2) by striking out the semicolon at the end of subsection (a)(2) and inserting a period;

(3) by striking out paragraphs (3), (4), and (5) of subsection (a); and

(4) by striking out "Committees referred to in subsection (a)(5)" in subsection (b) and inserting "the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate".

(e) MERCHANDISE PROCESSING FEES FOR CERTAIN SMALL AIRPORTS.—

(1) IN GENERAL.—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended—

(A) by inserting "and subsection (a)" in subparagraph (B) before the colon; and

(B) by inserting "other than an airport through which less than 25,000 informal entries are cleared annually" in subparagraph (B)(ii) before the end period.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 111 of the Customs and Trade Act of 1990.

PART II—TECHNICAL CORRECTIONS

SEC. 6311. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) REDESIGNATIONS.—Each subheading of the Harmonized Tariff Schedule of the United States that is listed in column A is redesignated as the subheading listed in column B opposite such column A subheading:

Column A	Column B
5111.20.60	5111.20.90
5111.30.60	5111.30.90
5111.90.70	5111.90.90
5112.19.10	5112.19.20
5112.19.60	5112.19.90
5112.90.60	5112.90.90
6116.10.50	6116.10.40
6116.93.20	6116.93.30
6116.99.60	6116.99.90
6216.00.23	6216.00.25
6216.00.29	6216.00.30
6216.00.47	6216.00.45
6702.90.40	6702.90.35
6702.90.60	6702.90.65
8712.00.10	8712.00.15
8712.00.20	8712.00.25
8712.00.30	8712.00.35
8714.94.20	8714.94.15
8714.94.50	8714.94.60
9022.90.80	9022.90.90
9603.10.20	9603.10.25
9603.10.70	9603.10.90

(b) MISCELLANEOUS AMENDMENTS.—The Harmonized Tariff Schedule of the United States is further amended as follows:

(1) The article descriptions for subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34, and 6216.00.44 are each amended to read as follows: "Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts".

(2) The superior heading to subheadings 8712.00.25 and 8712.00.35 (as redesignated by subsection (a)) is amended by striking out "65" and inserting "63.5".

(3) Heading 9902.30.07 is amended by striking out "2929.90.10" and inserting "2929.10.40".

(4) Heading 9902.30.08 is amended by striking out "2907.29.30" and inserting "2907.19.50".

(5) Heading 9902.30.42 is amended by striking out "19532-03-07" and inserting "19532-03-7".

(6) The article description for heading 9902.30.56 is amended by striking out "hydroxethyl" and inserting "hydroxyethyl".

(7) Heading 9902.30.83 (as enacted by section 388 of the Customs and Trade Act of 1990) is redesignated as heading 9902.31.11 and, as so redesignated, is amended by striking out "piperadinyl" and inserting "piperidinyl".

(8) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

(9) Heading 9902.84.83 is amended by striking out "(A,C,E,IL)" and inserting "(A,C,CA,E,IL)".

(10) Heading 9902.87.14 is amended by striking out "brakes," the first place it appears.

(c) EFFECTIVE DATE.—

(1) Subject to paragraphs (2) and (3), the amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Any amendment made by subsection (a) or (b) to a provision of the Harmonized Tariff Schedule of the United States that was the subject of an amendment made by title III of the Customs and Trade Act of 1990 shall—

(A) be treated as applying to that provision as established or amended by such title III; and

(B) if the amendment made by such title III has retroactive application under section 485(b) of such Act, be treated as applying with respect to entries made after the relevant applicable date (as defined in paragraph (2)(A) of such section 485(b)).

(3) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before April 1, 1991, any entry—

(A) which was made after December 31, 1988, and before October 1, 1990; and

(B) with respect to which there would have been a lesser duty if any amendment made by subsection (b)(1) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

SEC. 6312. TECHNICAL AMENDMENTS TO CERTAIN CUSTOMS LAWS.

(a) CUSTOMS FORFEITURE FUND.—

(1) Paragraph (5) of section 121 of the Customs and Trade Act of 1990 is repealed and subsection (f) of section 613A of the Tariff Act of 1930 shall be applied as if the amendment made by such paragraph (5) had not been enacted.

(2) Paragraph (2) of such section 613A(f) (as in effect after the application of paragraph (1)) is amended to read as follows:

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $14,855,000 for fiscal year 1991.

"(ii) $15,598,000 for fiscal year 1992.".

(b) CERTAIN ENTRIES.—Section 484 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "1801-000027" and inserting "1801-7-000027".

(c) EFFECTIVE DATE.—The provisions of this section take effect August 21, 1990.

Subtitle E—Pension Benefit Guarantee Corporation Premiums

SEC. 6401. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C.

1306(c)(1)(A)) is amended by adding at the end thereof the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

Subtitle F—Child Care and Development Block Grant

SEC. 6501. CHILD CARE AND DEVELOPMENT BLOCK GRANT.

Chapter 8 of subtitle A of title IV of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended—

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following new subchapter:

"Subchapter C—Child Care and Development Block Grant

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care and Development Block Grant Act of 1990'.

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, $750,000,000 for fiscal year 1991, $825,000,000 for fiscal year 1992, $925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

"The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

"SEC. 658D. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State desiring to receive a grant under this subchapter shall designate, in an application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.

"(b) DUTIES.—

"(1) IN GENERAL.—The lead agency shall—

"(A) administer, directly or through other State agencies, the financial assistance received under this subchapter by the State;

"(B) develop the State plan to be submitted to the Secretary under section 658E(a);

"(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of child care services under the State plan; and

"(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

"(2) DEVELOPMENT OF PLAN.—In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government. Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.

"SEC. 658E. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including—

"(1) an assurance that the State will comply with the requirements of this subchapter; and

"(2) a State plan that meets the requirements of subsection (c).

"(b) PERIOD COVERED BY PLAN.—The State plan contained in the application under subsection (a) shall be designed to be implemented—

"(1) during a 3-year period for the initial State plan; and

"(2) during a 2-year period for subsequent State plans.

"(c) REQUIREMENTS OF A PLAN.—

"(1) LEAD AGENCY.—The State plan shall identify the lead agency designated under section 658D.

"(2) POLICIES AND PROCEDURES.—The State plan shall:

"(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

"(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter, other than through assistance provided under paragraph (3)(C), are given the option either—

"(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

"(II) to receive a child care certificate as defined in section 658P(2);

"(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

"(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1991.

"(B) UNLIMITED PARENTAL ACCESS.—Provide assurances that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers.

"(C) PARENTAL COMPLAINTS.—Provide assurances that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request.

"(D) CONSUMER EDUCATION.—Provide assurances that consumer education information will be made available to parents and the general public within the State concerning licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.

"(E) COMPLIANCE WITH STATE AND LOCAL REGULATORY REQUIREMENTS.—Provide assurances that—

"(i) all providers of child care services within the State for which assistance is provided under this subchapter comply with all licensing or regulatory requirements (including registration requirements) applicable under State and local law; and

"(ii) providers within the State that are not required to be licensed or regulated under State or local law are required to be registered with the State prior to payment being made under this subchapter, in accordance with procedures designed to facilitate appropriate payment to such providers, and to permit the State to furnish information to such providers, including information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements in the State, and that such providers shall be permitted to register with the State after selection by the parents of eligible children and before such payment is made.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter than the standards or requirements imposed on other child care providers in the State.

"(F) ESTABLISHMENT OF HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements shall include—

"(i) the prevention and control of infectious diseases (including immunization);

"(ii) building and physical premises safety; and

"(iii) minimum health and safety training appropriate to the provider setting.

Nothing in this subparagraph shall be construed to require the establishment of additional health and safety requirements for child care providers that are subject to health and safety requirements in the categories described in this subparagraph on the date of enactment of this subchapter under State or local law.

"(G) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

"(H) REDUCTION IN STANDARDS.—Provide assurances that if the State reduces the level of standards applicable to child care services provided in the State on the date of enactment of this subchapter, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 658K.

"(I) REVIEW OF STATE LICENSING AND REGULATORY REQUIREMENTS.—Provide assurances that not later than 18 months after the date of the submission of the application under section 658E, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of this subchapter.

"(J) SUPPLEMENTATION.—Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of chud care services and related programs in the State.

"(3) USE OF BLOCK GRANT FUNDS.—

"(A) GENERAL REQUIREMENT.—The State plan shall provide that the State will use the

amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs (B) and (C).

"(B) CHILD CARE SERVICES.—Subject to the reservation contained in subparagraph (C), the State shall use amounts provided to the State for each fiscal year under this subchapter for—

"(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children in the State on a sliding fee scale basis using funding methods provided for in section 658E(c)(2)(A), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs; and

"(ii) activities designed to improve the affordability, availability and quality of child care, and to expand the range of choices of child care services available to parents.

"(C) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE SERVICES.—The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 658G) and to provide before- and after-school and early childhood development services (as described in section 658H).

"(4) PAYMENT RATES.—

"(A) IN GENERAL.—The State plan shall provide assurances that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs. Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create a private right of action.

"(5) SLIDING FEE SCALE.—The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing by the families that receive child care services for which assistance is provided under this subchapter.

"(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

"SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.

"(a) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subchapter shall be construed—

"(1) to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit; or

"(2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

"(b) CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—No funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

"(2) SECTARIAN AGENCY OR ORGANIZATION.—In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(F).

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives financial assistance under this subchapter shall use not less than 40 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year for one or more of the following:

"(1) RESOURCE AND REFERRAL PROGRAMS.—Operating directly or providing financial assistance to private nonprofit organizations or public organizations (including units of general purpose local government) for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

"(2) GRANTS OR LOANS TO ASSIST IN MEETING STATE AND LOCAL STANDARDS.—Making grants or providing loans to child care providers to assist such providers in meeting applicable State and local child care standards.

"(3) ESTABLISHMENT AND IMPROVEMENT OF STANDARDS.—Establishing and improving State and local child care standards and requirements.

"(4) MONITORING OF COMPLIANCE WITH LICENSING AND REGULATORY REQUIREMENTS.—Improving the monitoring of compliance with, and enforcement of, State and local licensing and regulatory requirements (including registration requirements).

"(5) TRAINING.—Providing training and technical assistance in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the care of children with special needs.

"(6) COMPENSATION.—Improving salaries and other compensation paid to full- and part-time staff who provide child care services for which assistance is provided under this subchapter.

"SEC. 658H. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL SERVICES.

"(a) IN GENERAL.—A State that receives financial assistance under this subchapter shall use not less than 40 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year to establish or expand and conduct, through the provision of grants or contracts, early childhood development and before- and after-school child care programs.

"(b) PROGRAM DESCRIPTION.—Programs that receive assistance under this section shall—

"(1) in the case of early childhood development programs, consist of services that are not intended to serve as a substitute for a compulsory academic programs but that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care programs—

"(A) be provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

"(B) not be intended to extend or replace the regular academic program.

"(c) PRIORITY FOR ASSISTANCE.—In awarding grants and contracts under this section, the State shall give the highest priority to geographic areas within the State that are eligible to receive grants under section 1006 of the Elementary and Secondary Education Act of 1965, and shall then give priority to—

"(1) any other areas with concentrations of poverty; and

"(2) any areas with very high or very low population densities.

"SEC. 658I. ADMINISTRATION AND ENFORCEMENT.

"(a) ADMINISTRATION.—The Secretary shall—

"(1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

"(2) collect, publish and make available to the public a listing of State child care standards at least once every 3 years; and

"(3) provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.

"(b) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State, and shall have the power to terminate payments to the State in accordance with paragraph (2).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

"(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter for, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(B) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

"(3) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(B) imposing sanctions under this section.

"SEC. 658J. PAYMENTS.

"(a) IN GENERAL.—Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year

in an amount equal to its allotment under section 658O for such fiscal year.

"(b) METHOD OF PAYMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

"(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 658O for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

"SEC. 658K. ANNUAL REPORT AND AUDITS.

"(a) ANNUAL REPORT.—Not later than December 31, 1992, and annually thereafter, a State that receives assistance under this subchapter shall prepare and submit to the Secretary a report—

"(1) specifying the uses for which the State expended funds specified under paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

"(2) containing available data on the manner in which the child care needs of families in the State are being fulfilled, including information concerning—

"(A) the number of children being assisted with funds provided under this subchapter, and under other Federal child care and preschool programs;

"(B) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

"(C) salaries and other compensation paid to full- and part-time staff who provide child care services;

"(3) describing the extent to which the affordability and availability of child care services has increased;

"(4) if applicable, describing, in either the first or second such report, the findings of the review of State licensing and regulatory requirements and policies described in section 658E(c), including a description of actions taken by the State in response to such reviews;

"(5) containing an explanation of any State action, in accordance with section 658E, to reduce the level of child care standards in the State, if applicable; and

"(6) describing the standards and health and safety requirements applicable to child care providers in the State, including a description of State efforts to improve the quality of child care;

during the period for which such report is required to be submitted.

"(b) AUDITS.—

"(1) REQUIREMENT.—A State shall, after the close of each program period covered by a application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

"(2) INDEPENDENT AUDITOR.—Audits under this subsection shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this subchapter and be in accordance with generally accepted auditing principles.

"(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

"(4) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitles under this subchapter.

"SEC. 658L. REPORT BY SECRETARY.

"Not later than July 31, 1993, and annually thereafter, the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

"SEC. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

"(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

"(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for—

"(1) any services provided to such students during the regular school day;

"(2) any services for which such students receive academic credit toward graduation; or

"(3) any instructional services which supplant or duplicate the academic program of any public or private school.

"SEC. 658N. NONDISCRIMINATION.

"(a) RELIGIOUS NONDISCRIMINATION.—

"(1) CONSTRUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

"(B) EXCEPTION.—A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

"(2) DISCRIMINATION AGAINST CHILD.—

"(A) IN GENERAL.—A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

"(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

"(3) EMPLOYMENT IN GENERAL.—

"(A) PROHIBITION.—A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

"(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

"(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

"(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

"(b) EFFECT ON STATE LAW.—Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

"SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to be allotted in accordance with their respective needs.

"(2) INDIANS TRIBES.—The Secretary shall reserve not more than 3 percent of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

"(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

"(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

"(2) YOUNG CHILD FACTOR.—The term 'young child factor' means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States

by the Census Bureau of the Department of Commerce.

"(3) SCHOOL LUNCH FACTOR.—The term 'school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

"(4) ALLOTMENT PERCENTAGE.—

"(A) IN GENERAL.—The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

"(B) LIMITATIONS.—If an allotment percentage determined under subparagraph (A)—

"(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

"(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

"(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 2-year intervals;

"(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) GENERAL AUTHORITY.—From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

"(2) APPLICATIONS AND REQUIREMENTS.—An application for a grant or contract under this section shall provide that:

"(A) COORDINATION.—The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

"(B) SERVICES ON RESERVATIONS.—In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

"(C) REPORTS AND AUDITS.—The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

"(3) CONSIDERATION OF SECRETARIAL APPROVAL.—In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

"(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

"(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

"(4) THREE-YEAR LIMIT.—Grants or contracts under this section shall be for periods not to exceed 3 years.

"(5) DUAL ELIGIBILITY OF INDIAN CHILDREN.—The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out under a grant to the State or States under this subchapter.

"(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—

"(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

"(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

"(f) DEFINITION.—For the purposes of this section, the term 'State' includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 658P. DEFINITIONS.

"As used in this subchapter:

"(1) CAREGIVER.—The term 'caregiver' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(2) CHILD CARE CERTIFICATE.—The term 'child care certificate' means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

"(3) ELEMENTARY SCHOOL.—The term 'elementary school' means a day or residential school that provides elementary education, as determined under State law.

"(4) ELIGIBLE CHILD.—The term 'eligible child' means an individual—

"(A) who is less than 13 years of age;

"(B) whose family income does not exceed 75 percent of the State median income for a family of the same size; and

"(C) who—

"(i) resides with a parent or parents who are working or attending a job training or educational program; or

"(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

"(5) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(E); and

"(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(F);

applicable to the child care services it provides; or

"(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, niece, or nephew of such provider, if such provider is registered and complies with any State requirements that govern child care provided by the relative involved.

"(6) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

"(8) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 658B(a).

"(9) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(10) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services unless the context specifies otherwise.

"(12) SLIDING FEE SCALE.—The term 'sliding fee scale' means a system of cost sharing by a family based on income and size of the family.

"(13) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(14) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

"SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES.

"Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

"SEC. 658R. SEVERABILITY.

"If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.".

TITLE VII—REVENUE PROVISIONS

SEC. 7100. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Subtitle A—1-Year Extension of Certain Expiring Tax Provisions

SEC. 7101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—This subsection shall apply to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 7102. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1990" each place it appears and inserting "December 31, 1991", and

(2) by striking "January 1, 1991" each place it appears and inserting "January 1, 1992".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7110 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(2) Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1990" and inserting "December 31, 1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) REPEAL OF LIMITATION ON GRADUATE LEVEL ASSISTANCE.—Section 127(c)(1) is amended by striking the last sentence.

(c) CONFORMING AMENDMENT.—Subsection (a) of section 7101 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

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

SEC. 7104. GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7105. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Act of 1981 is amended by striking "fiscal year 1982" and all that follows through "necessary" and inserting "each fiscal year such sums as may be necessary".

(c) EFFECTIVE DATES.—

(1) CREDIT.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after September 30, 1990.

(2) AUTHORIZATION.—The amendment made by subsection (b) shall apply to fiscal years beginning after 1990.

SEC. 7106. ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN THERMAL PROPERTY.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking "Sept. 30, 1990" in clauses (viii), (ix), and (x) and inserting "Dec. 31, 1991".

SEC. 7107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (o) of section 42 (relating to low-income housing credit) is amended—

(A) by striking "1990" each place it appears in paragraph (1) and inserting "1991", and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1992 if—

"(A) the bonds with respect to such building are issued before 1992,

"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1991, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1993, and

"(C) such building is placed in service before January 1, 1994."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 7108 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1989.

(b) ADDITIONAL AMENDMENTS.—

(1) CLARIFICATION OF TENANT RIGHTS OF 1ST REFUSAL.—Section 42(i) is amended—

(A) by redesignating paragraph (8) as paragraph (7), and

(B) by striking "the tenants of such building" in such paragraph and inserting "the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency".

(2) MONITORING NONCOMPLIANCE.—Clause (iv) of section 42(m)(1)(B) is amended to read as follows:

"(iv) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of."

(3) TREATMENT OF SECTION 515 RENTS.—Subparagraph (B) of section 42(g)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by inserting after clause (iii) the following new clause:

"(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949."

(4) QUALIFIED CENSUS TRACT DETERMINATIONS WHERE DATA NOT AVAILABLE.—Subclause (I) of section 42(d)(5)(C)(ii) is amended by adding at the end thereof the following new sentence: "If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts."

(5) EXCEPTION TO CREDIT DENIAL FOR MODERATE REHABILITATION ASSISTANCE.—

(A) IN GENERAL.—Paragraph (2) of section 42(c) is amended by adding at the end thereof the following new sentence: "Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of the enactment of this sentence))."

(B) CONFORMING AMENDMENT.—Paragraph (1) of section 42(b) is amended by striking the last sentence.

(6) AFDC RECIPIENT STUDENTS NOT TO DISQUALIFY UNIT.—Subparagraph (D) of section 42(i)(3) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is—

"(i) a student and receiving assistance under title IV of the Social Security Act, or

"(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws."

(7) PASSIVE LOSS RULES NOT TO APPLY TO REHABILITATION CREDIT WITH RESPECT TO LOW-INCOME CREDIT BUILDING.—

(A) Subparagraph (C) of section 469(i)(3) is amended—

(i) by inserting before the period "or which is attributable to the rehabilitation investment credit (within the meaning of section 48(o)) with respect to a building for which a credit is determined under section 42 for such year", and

(ii) by striking "CREDIT" in the heading and inserting "CREDIT AND FOR REHABILITATION CREDIT ON LOW-INCOME CREDIT BUILDING".

(B) Subparagraph (B) of section 469(i)(3) is amended by striking "In the case" and inserting "Except as provided in subparagraph (C), in the case".

(8) INTERMEDIARY COSTS CONSIDERED AT EVALUATION STAGE.—

(A) IN GENERAL.—Subparagraph (B) of section 42(m)(2) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end thereof the following:

"(iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas."

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 42(m)(1) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(9) 10-YEAR RULE NOT TO APPLY TO ACQUISITION OF CERTAIN SINGLE-FAMILY RESIDENCES.—Clause (ii) of section 42(d)(2)(D) is amended by striking "or" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", or", and by adding at the end thereof the following new subclause:

"(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence."

(10) APPLICATION OF NONPROFIT SET-ASIDE.—Section 42(h)(5) is amended—

(A) by inserting "own an interest in the project (directly or through a partnership) and" after "nonprofit organization is to" in subparagraph (B),

(B) by striking "and" at the end of clause (i) of subparagraph (C), by redesignating clause (ii) of such subparagraph as clause (iii), and by inserting after clause (i) of such subparagraph the following new clause:

"(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and", and

(C) by inserting "ownership and" before "material participation" in subparagraph (D).

(11) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1990, or

(ii) buildings placed in service after December 31, 1990, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof.

(B) TENANT RIGHTS, ETC.—The amendments made by paragraphs (1), (6), and (9) shall take effect on the date of the enactment of this Act.

(C) MONITORING.—With respect to the amendment made by paragraph (2), subparagraph (A) of this paragraph shall apply by substituting "1991" for "1990" each place it appears.

(D) PASSIVE LOSS.—

(i) Except as provided in clause (ii), the amendments made by paragraph (7) shall apply to property placed in service after December 31, 1990, in taxable years ending after such date.

(ii) In the case of a taxpayer who holds an indirect interest in property described in clause (i), the amendments made by paragraph (7) shall apply only if such interest is acquired after December 31, 1990.

SEC. 7108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "September 30, 1990" each place it appears and inserting "December 31, 1991".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(c) RECAPTURE PROVISION.—Paragraph (3)(A) of section 4005(h) of the Technical and Miscellaneous Revenue Act of 1988 (relating to effective dates) is amended by striking "1990" and inserting "1991".

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after September 30, 1990.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after September 30, 1990.

SEC. 7109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after September 30, 1990.

SEC. 7110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7107 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Section 28(b)(1) is amended by striking subparagraph (D).

Subtitle B—Tax Incentives

PART I—ENERGY INCENTIVES

SEC. 7201. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.

(a) CREDIT MADE PERMANENT.—Section 29(f)(1) of the Internal Revenue Code of 1986 (relating to application of section) is amended—

(1) by striking "and before January 1, 1991," in clauses (i) and (ii) of subparagraph (A), and

(2) by striking ", and before January 1, 2001" in subparagraph (B).

(b) MODIFICATION WITH RESPECT TO GAS FROM TIGHT FORMATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 29(c)(2) of such Code is amended to read as follows:

"(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term 'gas produced from a tight formation' shall only include gas from a tight formation—

"(i) which, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the Natural Gas Policy Act of 1978, as in effect on the date of the enactment of this clause), or

"(ii) which is produced from a well drilled after such date of enactment."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to gas produced after December 31, 1990.

SEC. 7202. CREDIT FOR SMALL PRODUCERS OF ETHANOL; MODIFICATION OF ALCOHOL FUELS CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 40(a) (relating to alcohol used as fuel) is amended—

(1) by striking the end period in paragraph (2) and inserting ", plus", and

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

"(3) in the case of an eligible small ethanol producer, the small ethanol producer credit."

(b) SMALL ETHANOL PRODUCER CREDIT.—Subsection (b) of section 40 is amended—

(1) by redesignating paragraph (4) as paragraph (5),

(2) by inserting after paragraph (3) the following new paragraph:

"(4) SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—The small ethanol producer credit of any eligible small ethanol producer for any taxable year is 10 cents for each gallon of qualified ethanol fuel production of such producer.

"(B) QUALIFIED ETHANOL FUEL PRODUCTION.—For purposes of this paragraph, the term 'qualified ethanol fuel production' means any alcohol which is ethanol which is produced by an eligible small ethanol producer, and which during the taxable year—

"(i) is sold by such producer to another person—

"(I) for use by such other person in the production of a qualified mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person, or

"(ii) is used or sold by such producer for any purpose described in clause (i).

"(C) LIMITATION.—The qualified ethanol fuel production of any producer for any taxable year shall not exceed 15,000,000 gallons.

"(D) ADDITIONAL DISTILLATION EXCLUDED.—The qualified ethanol fuel production of any producer for any taxable year shall not include any alcohol which is purchased by the producer and with respect to which such person increases the proof of the alcohol by additional distillation."; and

(3) by striking "AND ALCOHOL CREDIT" in the heading for such subsection and inserting ", ALCOHOL CREDIT, AND SMALL ETHANOL PRODUCER CREDIT".

(c) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT.—Section 40 is amended by adding at the end thereof the following new subsection:

"(g) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT.—For purposes of this section—

"(1) ELIGIBLE SMALL ETHANOL PRODUCER.—The term 'eligible small ethanol producer' means a person who, at all times during the taxable year, has a productive capacity for alcohol (as defined in subsection (d)(1)(A) without regard to clauses (i) and (ii)) not in excess of 20,000,000 gallons.

"(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(4)(C) and the 20,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating a 50 percent or greater interest as a controlling interest) shall be treated as 1 person.

"(3) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(4)(C) shall be applied at the entity level and at the partner or similar level.

"(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in the same manner as production is allocated.

"(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

"(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 20,000,000 gallons of alcohol during the taxable year, or

"(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year."

(d) ALCOHOL NOT USED AS FUEL.—

(1) IN GENERAL.—Section 40(d)(3) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) PRODUCER CREDIT.—If—

"(i) any credit was determined under this section, and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(4)(B), then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such alcohol."

(2) CONFORMING AMENDMENT.—Section 40(d)(3)(D), as redesignated by paragraph (1), is amended by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)".

(e) REDUCED CREDIT FOR ETHANOL BLENDERS.—

(1) IN GENERAL.—Section 40, as amended by subsection (c), is amended by adding at the end thereof the following new subsection:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol—

"(1) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting '55 cents' for '60 cents';

"(2) subsection (b)(3) shall be applied by substituting '40 cents' for '45 cents' and '55 cents' for '60 cents'; and

"(3) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting '55 cents' for '60 cents' and '40 cents' for '45 cents'."

(2) CONFORMING AMENDMENT.—Section 40(b) is amended by inserting ", and except as provided in subsection (h)" in the matter preceding paragraph (1) thereof.

(f) TERMINATION.—Subsection (e) of section 40 is amended to read as follows:

"(e) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any sale or use—

"(A) for any period after December 31, 2000, or

"(B) for any period before January 1, 2001, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect.

"(2) NO CARRYOVERS TO CERTAIN YEARS AFTER EXPIRATION.—If this section ceases to apply for any period by reason of paragraph (1), no amount attributable to any sales or uses before the first day of such period may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after the second taxable year beginning after the taxable year in which such first day occurs."

(g) CONFORMING AMENDMENTS TO TARIFF SCHEDULE.—

(1) Heading 9901.00.50 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended—

(A) by striking "15.85¢" each place it appears and inserting "14.53¢", and

(B) by striking out the date in the effective period column and inserting "Before 10/1/2000, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect."

(2) Heading 9901.00.52 of the Harmonized Tariff Schedule of the United States is amended by striking out "The earlier of 12/

31/92, or the date on which Treasury regulation § 1.40-1 is withdrawn or declared invalid." in the effective period column and inserting: "Before the earlier of 10/1/2000, or the date on which Treas. Reg. § 1.40-1 is withdrawn or declared invalid, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect."

(h) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to alcohol produced, and sold and used, in taxable years beginning after December 31, 1990.

(2) The amendments made by subsection (g) shall apply to articles entered or withdrawn from warehouse on or after January 1, 1991.

SEC. 7203. TAX CREDIT TO INCREASE DOMESTIC ENERGY EXPLORATION AND PRODUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end thereof the following new section:

"SEC. 43. DOMESTIC ENERGY EXPLORATION AND PRODUCTION CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to 15 percent of the sum of—

"(1) the qualified enhanced oil recovery costs, plus

"(2) the qualified exploratory costs,

of the taxpayer for such taxable year.

"(b) PHASE-OUT OF CREDIT AS CRUDE OIL PRICES INCREASE.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to

"(B) $6.

"(2) REFERENCE PRICE.—For purposes of this subsection, the term 'reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

"(3) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—The $28 amount under paragraph (1)(A) for any taxable year beginning in a calendar year after 1991 shall be equal to the product of—

"(i) $28, multiplied by

"(ii) the inflation adjustment factor for such calendar year.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. For purposes of the preceding sentence, the term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

"(4) CARRYBACKS AND CARRYFORWARDS.—This subsection shall not apply to any carryback or carryforward to the taxable year under section 39.

"(c) QUALIFIED COSTS.—For purposes of this section—

"(1) QUALIFIED ENHANCED OIL RECOVERY COSTS.—

"(A) IN GENERAL.—The term 'qualified enhanced oil recovery costs' means any of the following:

"(i) Any amount paid or incurred during the taxable year for tangible property—

"(I) which is an integral part of a qualified enhanced oil recovery project, and

"(II) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.

"(ii) Any intangible drilling and development costs—

"(I) which are paid or incurred in connection with a qualified enhanced oil recovery project, and

"(II) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(iii) Any qualified tertiary injectant expenses which are paid or incurred in connection with a qualified enhanced oil recovery project and for which a deduction is allowable under section 193 for the taxable year.

"(B) QUALIFIED ENHANCED OIL RECOVERY PROJECT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified enhanced oil recovery project' means any project—

"(I) which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(II) which is located within the United States (within the meaning of section 638(1)), and

"(III) with respect to which the date on which the injection of liquids, gases, or other matter first begins is after December 31, 1990.

"(ii) CERTIFICATION.—A project shall not be treated as a qualified enhanced oil recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of clause (i).

"(C) AT-RISK LIMITATION.—For purposes of determining qualified enhanced oil recovery costs, rules similar to the rules of section 46(c)(8), section 46(c)(9), and section 47(d)(1) shall apply.

"(2) QUALIFIED EXPLORATORY COSTS.—

"(A) IN GENERAL.—The term 'qualified exploratory costs' means intangible drilling and development costs of a taxpayer other than an integrated oil company which—

"(i) the taxpayer may elect to deduct as expenses under section 263(c), and

"(ii) are paid or incurred in connection with the drilling of an exploratory well located in the United States (within the meaning of section 638(1)).

"(B) EXPLORATORY WELL.—The term 'exploratory well' means any of the following oil or gas wells:

"(i) An oil or gas well which is completed (or if not completed, with respect to which drilling operations cease) before the completion of any other well which—

"(I) is located within 1.25 miles from the well, and

"(II) is capable of production in commercial quantities,

"(ii) An oil or gas well which is not described in clause (i) but which has a completion depth which is at least 800 feet below the deepest completion depth of any well within 1.25 miles which is capable of production in commercial quantities.

"(iii) An oil or gas well which is not described in clause (i) or (ii) but which is completed into a new reservoir.

A well shall not be treated as an exploratory well unless the operator submits to the Secretary (at such time and in such manner as the Secretary may provide) a certification from a petroleum engineer that the well is described in one of the preceding clauses.

"(C) CERTAIN COSTS NOT INCLUDED.—The term 'qualified exploratory costs' shall not include any cost paid or incurred—

"(i) in constructing, acquiring, transporting, erecting, or installing an offshore platform, or

"(ii) after the installation of the production string of casing begins.

"(D) INTEGRATED OIL COMPANY.—For purposes of this paragraph, the term 'integrated oil company' means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d).

"(e) OTHER RULES.—

"(1) DISALLOWANCE OF DEDUCTION.—Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit allowed under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

"(2) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed."

(b) ADDITION TO GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(6) the domestic energy exploration and production credit under section 43(a)."

(2) CARRYBACKS.—Section 39(d) is amended by adding at the end thereof the following new paragraph:

"(5) NO CARRYBACK OF ENERGY EXPLORATION AND PRODUCTION CREDIT BEFORE 1991.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 43 (relating to domestic energy exploration and production credit) may be carried to a taxable year beginning before January 1, 1991."

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 43. Domestic energy exploration and production credit."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1990.

(2) SPECIAL RULE FOR SIGNIFICANT EXPANSION OF PROJECTS.—For purposes of section 43(c)(1)(B)(i)(III) of the Internal Revenue Code of 1986 (as added by subsection (a)), any significant expansion after December 31, 1990, of a project begun before January 1, 1991, shall be treated as a new project begun after December 31, 1990.

SEC. 7204. PERCENTAGE DEPLETION PERMITTED AFTER TRANSFER OF PROVEN PROPERTY.

(a) IN GENERAL.—Subsection (c) of section 613A (relating to limitations on percentage depletion in the case of oil and gas wells) is amended by striking paragraphs (9) and (10) and by redesignating paragraphs (11), (12), and (13) as paragraphs (9), (10), and (11), respectively.

(b) TECHNICAL AMENDMENT.—Paragraph (11) of section 613A(c), as redesignated by subsection (a), is amended by striking subparagraphs (C) and (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 11, 1990.

SEC. 7205. NET INCOME LIMITATION ON PERCENTAGE DEPLETION INCREASED FROM 50 PERCENT TO 100 PERCENT OF PROPERTY NET INCOME FOR OIL AND NATURAL GAS WELLS.

(a) IN GENERAL.—The second sentence of subsection (a) of section 613 (relating to percentage depletion) is amended by inserting "(100 percent in the case of oil and gas properties)" after "50 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 613A(c)(7) is amended by striking "50-percent" and inserting "taxable income".

(2) Section 614(d) is amended by striking "50 percent" and inserting "taxable income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7206. INCREASE IN PERCENTAGE DEPLETION ALLOWANCE FOR MARGINAL PRODUCTION.

(a) IN GENERAL.—Paragraph (6) of section 613A(c) is amended to read as follows:

"(6) OIL AND NATURAL GAS RESULTING FROM MARGINAL PRODUCTION.—

"(A) IN GENERAL.—Except as provided in subsection (d) and subparagraph (B), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(i) so much of the taxpayer's average daily marginal production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and

"(ii) so much of the taxpayer's average daily marginal production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)),

and the applicable percentage shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(B) ELECTION TO HAVE PARAGRAPH APPLY TO PRO RATA PORTION OF MARGINAL PRODUCTION.—If the taxpayer elects to have this subparagraph apply for any taxable year, the rules of subparagraph (A) shall apply to the average daily marginal production of domestic crude oil or domestic natural gas of the taxpayer to which paragraph (1) would have applied without regard to this paragraph.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage (not greater than 25 percent) equal to the sum of—

"(i) 15 percent, plus

"(ii) 1 percentage point for each whole dollar by which $20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins.

For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

"(D) MARGINAL PRODUCTION.—The term 'marginal production' means domestic crude oil or domestic natural gas which is—

"(i) produced during any taxable year from a well which is a stripper well for the calendar year in which the taxable year begins, or

"(ii) heavy oil.

"(E) STRIPPER WELL.—For purposes of this paragraph, the term 'stripper well' means, with respect to any calendar year, any well with respect to which the average daily production of domestic crude oil or domestic natural gas during such calendar year is 15 barrel equivalents or less.

"(F) HEAVY OIL.—For purposes of this paragraph, the term 'heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(G) AVERAGE DAILY MARGINAL PRODUCTION.—For purposes of this subsection—

"(i) the taxpayer's average daily marginal production of domestic crude oil or natural gas for any taxable year shall be determined by dividing the taxpayer's aggregate marginal production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and

"(ii) in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership), such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.

"(H) ALLOCATION OF INCOME AND DEDUCTIONS.—For purposes of applying any limitation based on taxable income from a property—

"(i) such limitation shall be applied separately with respect to marginal production and other production, and

"(ii) items of income deductions (and other appropriate items) shall be allocated to such production in proportion to gross income during the taxable year from such production."

(b) CONFORMING AMENDMENTS.—Section 613A(c)(3)(A) is amended—

(1) by striking clause (ii) and inserting:

"(ii) except in the case of a taxpayer making an election under paragraph (6)(B), the taxpayer's average daily marginal production for the taxable year."; and

(2) by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7207. SPECIAL ENERGY DEDUCTION FOR MINIMUM TAX.

(a) IN GENERAL.—Section 56 (relating to adjustments in computing alternative minimum taxable income) is amended by adding at the end thereof the following new subsection:

"(h) ADJUSTMENT BASED ON ENERGY PREFERENCES.—

"(1) IN GENERAL.—In computing the alternative minimum taxable income of any taxpayer other than an integrated oil company for any taxable year beginning after 1990, there shall be allowed as a deduction an amount equal to the lesser of—

"(A) the alternative tax energy preference deduction, or

"(B) 40 percent of alternative minimum taxable income determined without regard to the deduction allowable under this subsection and the alternative tax net operating loss deduction under subsection (a)(4).

"(2) PHASE-OUT OF DEDUCTION AS OIL PRICES INCREASE.—The amount of the deduction under paragraph (1) (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such amount as—

"(A) the excess of the reference price of crude oil for the calendar year preceding the calendar year in which the taxable year begins over $28, bears to

"(B) $6.

For purposes of this paragraph, the reference price for any calendar year shall be determined under section 29(d)(3)(C) and the $28 amount under subparagraph (A) shall be adjusted at the same time and in the same manner as under section 43(b)(3).

"(3) ALTERNATIVE TAX ENERGY PREFERENCE DEDUCTION.—For purposes of paragraph (1), the term 'alternative tax energy preference deduction' means an amount equal to the sum of—

"(A) in the case of the intangible drilling cost preference, an amount equal to the sum of—

"(i) 75 percent of the portion of such preference attributable to qualified exploratory costs, plus

"(ii) 15 percent of the excess (if any) of—

"(I) such preference, over

"(II) the portion of such preference attributable to qualified exploratory costs, plus

"(B) 50 percent of the marginal production depletion preference.

"(4) INTANGIBLE DRILLING COST PREFERENCE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2) and subsection (g)(4)(D)(i).

"(B) PORTION ATTRIBUTABLE TO QUALIFIED EXPLORATORY COSTS.—For purposes of subparagraph (A), the portion of the intangible drilling cost preference attributable to qualified exploratory costs is an amount which bears the same ratio to the intangible drilling cost preference as—

"(i) the qualified exploratory costs of the taxpayer for the taxable year, bear to

"(ii) the total intangible drilling and development costs with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(5) MARGINAL PRODUCTION DEPLETION PREFERENCE.—For purposes of this subsection, the term 'marginal production depletion preference' means the amount by which alternative minimum taxable income would be reduced if it were computed as if section 57(a)(1) and subsection (g)(4)(G) did not apply to any allowance for depletion determined under section 613A(c)(6).

"(6) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 43 shall have the same meaning as when used in such section.

"(7) REGULATIONS.—The Secretary may by regulation provide for appropriate adjustments in computing taxable income, alternative minimum taxable income, or adjusted current earnings for any taxable year following a taxable year for which a deduction was allowed under this subsection to ensure that no double benefit is allowed by reason of such deduction."

(b) CONFORMING AMENDMENTS.—

(1) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed the excess (if any) of—

"(i) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under subsection (h), over

"(ii) the deduction under subsection (h), and".

(2) Section 59(a)(2)(A)(ii) is amended by inserting "and the alternative tax energy preference deduction under section 56(h)" after "deduction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7208. REDUCE POLLUTION AND DEPENDENCE ON FOREIGN OIL

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels;

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation; and

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels.

SEC. 7286A. RESOLUTION.

It is the sense of the Senate that it is in the national interest to enhance energy security and promote environmental protection through the gradual replacement of gasoline with cleaner, domestic nonpetroleum energy sources, and

The Secretary of Energy should analyze the potential of, and report to Congress on, the technical feasibility of replacing, by 1998 and 2005, ten per cent and thirty per cent respectively, of our national transportation fuel with alternative and other domestic sources of energy.

PART II—SMALL BUSINESS INCENTIVES

Subpart A—Treatment of Estate Tax Freezes

SEC. 7291. REPEAL OF SECTION 2036(c).

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 2207B is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively,

(B) by striking "subsections (a) and (b)" in subsection (c) (as so redesignated) and inserting "subsection (a)", and

(C) by striking "subsections (a), (b), and (c)" in subsection (c) (as so redesignated) and inserting "subsections (a) and (b)".

(2) Section 2501(d) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987.

SEC. 7218. SPECIAL VALUATION RULES.

(a) IN GENERAL.—Subtitle B is amended by adding at the end thereof the following new chapter:

"CHAPTER 14—SPECIAL VALUATION RULES

"Sec. 2701. Special valuation rules in case of transfers of certain interests in corporations or partnerships.

"Sec. 2702. Special valuation rules in case of transfers of interests in trusts.

"Sec. 2703. Certain rights and restrictions disregarded.

"Sec. 2704. Treatment of certain restrictions and lapsing rights.

"SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS.

"(a) VALUATION RULES.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer of an interest in a corporation or partnership to (or for the benefit of) a member of the transferor's family is a gift (and the value of such transfer), the value of any right which is—

"(A) described in subparagraph (A) or (B) of subsection (c)(1), and

"(B) under any applicable retained interest that is retained by the transferor or an applicable family member immediately after the transfer,

shall be treated as being zero.

"(2) EXCEPTIONS FOR MARKETABLE INTERESTS, ETC.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any right conferred by an applicable retained interest if—

"(i) market quotations are readily available (as of the date of the transfer) for such interest on an established securities market,

"(ii) such interest is of the same class as the transferred interest,

"(iii) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of an interest in a partnership, nonlapsing differences with respect to management and limitations on liability), or

"(iv) such interest is proportionally the same as the transferred interest with respect to all rights other than voting power.

Clause (iii) shall not apply to any interest in a partnership if the transferor or an applicable family member has the right to alter the liability of the transferee of the transferred property. Except as provided by the Secretary, any difference described in clause (iii) which lapses by reason of State law shall be treated as a nonlapsing difference for purposes of such clause.

"(B) CUMULATIVE DISTRIBUTION RIGHTS.—Paragraph (1) shall not apply to a distribution right with respect to which the distributions are cumulative and which has a preference upon liquidation, except that for purposes of determining the value of the retained interest to which such right relates, the determination as to whether the cumulative distributions can reasonably be expected to be timely paid shall be made without regard to whether the person retaining the interest possesses control over the entity.

"(3) MINIMUM VALUATION OF JUNIOR EQUITY.—

"(A) IN GENERAL.—In the case of a transfer described in paragraph (1) of a junior equity interest in a corporation or partnership, such interest shall in no event be valued at an amount less than the value which would be determined if the total value of all of the junior equity interests in the entity were equal to 10 percent of the sum of—

"(i) the total value of all of the equity interests in such entity, plus

"(ii) the total amount of indebtedness of such entity to the transferor (or an applicable family member).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) JUNIOR EQUITY INTEREST.—The term 'junior equity interest' means common stock or, in the case of a partnership, any partnership interest under which the rights as to income and capital are junior to the rights retained by the transferor.

"(ii) EQUITY INTEREST.—The term 'equity interest' means stock or any interest as a partner, as the case may be.

"(4) EXCEPTION FOR MARKETABLE TRANSFERRED INTERESTS.—This subsection shall not apply to the transfer of any interest in an entity if market quotations are readily available (as of the date of the transfer) for such interest on an established securities market.

"(b) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS.—

"(1) IN GENERAL.—If a taxable event occurs with respect to any distribution right to which subsection (a)(1) does not apply by reason of subsection (a)(2)(B), the following shall be increased by the amount determined under paragraph (2):

"(A) The taxable estate of the transferor in the case of a taxable event described in paragraph (3)(A)(i).

"(B) The taxable gifts of the transferor for the calendar year in which the taxable event occurs in the case of a taxable event described in paragraph (3)(A) (ii) or (iii).

"(2) AMOUNT OF INCREASE.—

"(A) IN GENERAL.—The amount of the increase determined under this paragraph shall be the excess (if any) of—

"(i) the value of the distributions payable during the period beginning on the date of the transfer under subsection (a)(1) and ending on the date of the taxable event determined as if—

"(I) all such distributions were paid on the date payment was due, and

"(II) all such distributions were reinvested by the transferor as of the date of payment at a yield equal to the discount rate used in determining the value of the applicable retained interest described in subsection (a)(1), over

"(ii) the value of the distributions paid during such period computed under clause (i) on the basis of the time when such distributions were actually paid.

"(B) LIMITATION ON AMOUNT OF INCREASE.—

"(i) IN GENERAL.—The amount of the increase under subparagraph (A) shall not exceed the applicable percentage of the excess (if any) of—

"(I) the value of the junior equity interests in the entity (determined as of the date of the taxable event), over

"(II) the value of such interests (determined as of the date of the transfer to which subsection (a)(1) applies).

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the percentage determined by dividing—

"(I) the fair market value of the interests in the entity (other than junior equity interests) held by the transferor (determined as of the date of the taxable event), by

"(II) the fair market value of all interests in the entity other than junior equity interests (determined as of such time).

"(iii) DEFINITIONS.—For purposes of this subparagraph, the terms 'junior equity interest' and 'equity interest' have the meanings given such terms by subsection (a)(3)(B).

"(C) GRACE PERIOD.—For purposes of subparagraph (A), any payment of any distribution during the 4-year period beginning on its due date shall be treated as having been made on such due date.

"(3) TAXABLE EVENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'taxable event' means any of the following:

"(i) The death of the transferor if the applicable retained interest conferring the distribution right is includible in the estate of the transferor.

"(ii) The transfer of such applicable retained interest.

"(iii) At the election of the taxpayer, the payment of any distribution after the period described in paragraph (2)(C), but only with respect to the period ending on the date of such payment.

"(B) EXCEPTION WHERE SPOUSE IS TRANSFEREE.—

"(i) DEATHTIME TRANSFERS.—Subparagraph (A)(i) shall not apply to any interest includible in the gross estate of the transferor if a deduction with respect to such interest is allowable under section 2056 or 2106(a)(3).

"(ii) LIFETIME TRANSFERS.—A transfer to the spouse of the transferor shall not be treated as a taxable event under subparagraph

(A)(ii) if such transfer does not result in a taxable gift by reason of—

"(I) any deduction allowed under section 2523, or

"(II) consideration for the transfer provided by the spouse.

"(iii) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR.—If an event is not treated as a taxable event by reason of this subparagraph, the transferee spouse or surviving spouse (as the case may be) shall be treated in the same manner as the transferor in applying this subsection with respect to the interest involved.

"(4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS.—

"(A) FAMILY MEMBER TREATED IN SAME MANNER AS TRANSFEROR.—For purposes of this subsection, an applicable family member shall be treated in the same manner as the transferor with respect to any distribution right retained by such family member to which subsection (a)(1) does not apply by reason of subsection (a)(2)(B).

"(B) TRANSFER TO APPLICABLE FAMILY MEMBER.—In the case of a taxable event described in paragraph (3)(A)(ii) involving the transfer of an applicable retained interest to an applicable family member, the applicable family member (other than the spouse of the transferor) shall be treated in the same manner as the transferor in applying this subsection to distributions accumulating with respect to such interest after such taxable event.

"(5) TRANSFER TO INCLUDE TERMINATION.—For purposes of this subsection, any termination of an interest shall be treated as a transfer.

"(c) APPLICABLE RETAINED INTEREST.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable retained interest' means any interest in an entity which confers—

"(A) a distribution right, but only if, immediately after the transfer described in subsection (a)(1), the transferor and applicable family members hold (after application of subsection (e)(3)) interests in such entity representing control of the entity, or

"(B) a liquidation, put, call, or conversion right.

"(2) CONTROL.—For purposes of paragraph (1)—

"(A) CORPORATIONS.—In the case of a corporation, the term 'control' means the holding of interests representing at least 50 percent (by vote or value) of the stock of the corporation.

"(B) PARTNERSHIPS.—In the case of a partnership, the term 'control' means—

"(i) the holding of interests representing at least 50 percent of the capital or profits interests in the partnership, or

"(ii) in the case of a limited partnership, the holding of any interest as a general partner.

"(d) DISTRIBUTION AND OTHER RIGHTS.—For purposes of this section—

"(1) DISTRIBUTION RIGHT.—

"(A) IN GENERAL.—The term 'distribution right' means—

"(i) in the case of a corporation, a right to distributions from the corporation with respect to its stock, and

"(ii) in the case of a partnership, a right to distributions from the partnership with respect to the partner's interest in the partnership.

"(B) EXCEPTIONS.—The term 'distribution right' does not include—

"(i) any junior equity interest (as defined in subsection (a)(3)(B)(i)),

"(ii) any liquidation, put, call, or conversion right, or

"(iii) any guaranteed payment described in section 707(c).

"(2) LIQUIDATION, ETC. RIGHTS.—

"(A) IN GENERAL.—The term 'liquidation, put, call, or conversion right' means any liquidation, put, call, or conversion right, or any similar right, the exercise or nonexercise of which affects the value of the transferred interest.

"(B) EXCEPTION FOR FIXED RIGHTS.—The term 'liquidation, put, call, or conversion right' does not include any liquidation, put, call, or conversion right, or any similar right, which must be exercised at a specific time and at a specific amount.

"(C) TREATMENT OF CERTAIN RIGHTS TO CONVERT PREFERRED INTO COMMON.—The term 'liquidation, put, call, or conversion right' does not include any right which—

"(i) is a right to convert into a fixed number (or a fixed percentage) of the same class of interest in a corporation as the transferred interest in such corporation under subsection (a)(1) (or would be of the same class but for nonlapsing differences in voting power),

"(ii) is nonlapsing,

"(iii) is subject to proportionate adjustments for splits, combinations, reclassifications, and similar changes in the capital stock, and

"(iv) is subject to adjustments similar to the adjustments under subsection (b) for accumulated but unpaid distributions.

A rule similar to the rule of the preceding sentence shall apply in the case of partnerships.

"(e) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) MEMBER OF THE FAMILY.—The term 'member of the family' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) a lineal descendant of the transferor or the transferor's spouse, and

"(C) the spouse of any such descendant.

"(2) APPLICABLE FAMILY MEMBER.—The term 'applicable family member' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) an ancestor of the transferor or the transferor's spouse, and

"(C) the spouse of any such ancestor.

"(3) ATTRIBUTION RULES.—

"(A) INDIRECT HOLDINGS.—An individual shall be treated as holding any interest to the extent such interest is held indirectly by such person through a corporation, partnership, trust, or other entity. If any individual is treated as holding any interest by reason of the preceding sentence, any transfer which results in such interest being treated as no longer held by such individual shall be treated as a transfer of such interest.

"(B) CONTROL.—For purposes of subsection (c)(1), an individual shall be treated as holding any interest held by a brother or a sister of such individual or by any lineal descendant of such individual.

"(4) EFFECT OF ADOPTION.—A relationship by legal adoption shall be treated as a relationship by blood.

"(5) CERTAIN CHANGES TREATED AS TRANSFERS.—Except as provided in regulations, a redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership shall be treated as a transfer of an interest in such entity to which this section applies if the taxpayer or an applicable family member—

"(A) receives an applicable retained interest in such entity pursuant to such redemption, recapitalization, contribution to capital, or other change, or

"(B) under regulations, otherwise holds, immediately after the transfer, an applicable retained interest in such entity.

"(6) ADJUSTMENTS.—Under regulations prescribed by the Secretary, if there is any subsequent transfer, or inclusion in the gross estate, of any interest which was valued under the rules of subsection (a), appropriate adjustments shall be made for purposes of chapter 11 or 12 to reflect the amount of any prior taxable gift made by the transferor or decedent by reason of such valuation.

"SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN TRUSTS.

"(a) VALUATION RULES.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer of an interest in a trust to a member of the transferor's family is a gift (and the value of such transfer), the value of any interest in such trust retained by the transferor or any applicable family member (as defined in section 2701(e)(2)) shall be determined as provided in paragraph (2).

"(2) VALUATION OF RETAINED INTERESTS.—

"(A) IN GENERAL.—The value of any retained interest which is not a qualified interest shall be treated as being zero.

"(B) VALUATION OF QUALIFIED INTEREST.—The value of any retained interest which is a qualified interest shall be determined under section 7520.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—This subsection shall not apply to any transfer—

"(i) to the extent such transfer is an incomplete transfer, or

"(ii) if such transfer involves the transfer of an interest in a trust all the property in which consists of a personal residence to be used by persons holding term interests in such trust.

"(B) INCOMPLETE TRANSFER.—For purposes of subparagraph (A), the term 'incomplete transfer' means any transfer which would not be treated as a gift whether or not consideration were received for such transfer.

"(b) QUALIFIED INTEREST.—For purposes of this section, the term 'qualified interest' means—

"(1) any interest which consists of the right to receive fixed amounts payable not less frequently than annually,

"(2) any interest which consists of the right to receive amounts which are payable not less frequently than annually and are a fixed percentage of the fair market value of the property in the trust (determined annually), and

"(3) any noncontingent remainder interest if all of the other interests in the trust consist of interests described in paragraph (1) or (2).

"(c) CERTAIN PROPERTY TREATED AS HELD IN TRUST.—For purposes of this section—

"(1) IN GENERAL.—The transfer of an interest in property with respect to which there is 1 or more term interests shall be treated as a transfer of an interest in a trust.

"(2) JOINT PURCHASES.—If 2 or more members of the same family acquire interests in any property described in paragraph (1) in the same transaction (or a series of related transactions), the person (or persons) acquiring the term interests in such property shall be treated as having acquired the entire property and then transferred to the other persons the interests acquired by such other persons in the transaction (or series of transactions). Such transfer shall be treated as made in exchange for the consideration (if any) provided by such other persons for the acquisition of their interests in such property.

"(3) TERM INTEREST.—The term 'term interest' means—

"(A) a life interest in property, or

"(B) an interest in property for a term of years.

"(4) VALUATION RULE FOR CERTAIN TERM INTERESTS.—If the nonexercise of rights under a term interest in tangible property would

not have a substantial effect on the valuation of the remainder interest in such property—

"(A) subparagraph (A) of subsection (a)(2) shall not apply to such term interest, and

"(B) the value of such term interest for purposes of applying subsection (a)(1) shall be the amount which the holder of the term interest establishes as the amount for which such interest could be sold to an unrelated third party.

"(d) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST.—In the case of a transfer of an income or remainder interest with respect to a specified portion of the property in a trust, only such portion shall be taken into account in applying this section to such transfer.

"SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.

"(a) GENERAL RULE.—For purposes of this subtitle, the value of any property shall be determined without regard to—

"(1) any option, agreement, or other right to acquire or use the property at a price less than the fair market value of the property (without regard to such option, agreement, or right), or

"(2) any restriction on the right to sell or use such property.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to any option, agreement, right, or restriction which meets each of the following requirements:

"(1) It is a bona fide business arrangement.

"(2) It is not a device to transfer such property to members of the decedent's family for less than full and adequate consideration for money or money's worth.

"(3) Its terms are comparable to similar arrangements entered into by persons in an arms' length transaction.

"SEC. 2704. TREATMENT OF CERTAIN RESTRICTIONS AND LAPSING RIGHTS.

"For purposes of this subtitle, the value of any property shall be determined—

"(1) without regard to any restriction other than a restriction which by its terms will never lapse, and

"(2) in the case of property includible in the gross estate of any decedent other than under section 2039, by assuming that any right which was held by such decedent with respect to such property and which effectively lapsed on the death of such decedent continues and can be exercised by the estate of such decedent."

(b) EXTENSION OF STATUTE OF LIMITATIONS.—Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(b)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

(c) CONFORMING AMENDMENT.—The table of chapters for subtitle B is amended by adding at the end thereof the following item:

"CHAPTER 14. SPECIAL VALUATION RULES."

(d) STUDIES.—The Secretary of the Treasury shall conduct a study of—

(1) the prevalence and type of options and agreements used to distort the valuation of property for purposes of subtitle B of the Internal Revenue Code of 1986, and

(2) other methods using discretionary rights to distort the value of property for such purposes.

The Secretary shall, not later than December 31, 1992, report the results of such study, together with such legislative recommendations as the Secretary considers necessary, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—The amendments made by subsection (a)—

(i) to the extent such amendments relate to sections 2701 and 2702 of the Internal Revenue Code of 1986 (as added by such amendments), shall apply to transfers after October 8, 1990,

(ii) to the extent such amendments relate to section 2703 of such Code (as so added), shall apply to—

(I) agreements, options, rights, or restrictions entered into or granted after October 8, 1990, and

(II) agreements, options, rights, or restrictions which are substantially modified after October 8, 1990, and

(iii) to the extent such amendments relate to section 2704 of such Code (as so added), shall apply to restrictions or rights (or limitations on rights) created after October 8, 1990.

(B) EXCEPTION.—For purposes of subparagraph (A)(i), with respect to property transferred before October 9, 1990—

(i) any failure to exercise a right of conversion,

(ii) any failure to pay dividends, and

(iii) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts after October 8, 1990.

Subpart B—Additional Incentives

SEC. 7211. INCREASE IN LIMITATION ON EXPENSING UNDER SECTION 179.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking "$10,000" and inserting "$14,000".

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

SEC. 7212. CREDIT FOR COST OF PROVIDING NONDISCRIMINATORY PUBLIC ACCOMMODATIONS FOR DISABLED INDIVIDUALS.

(a) GENERAL RULE.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credits, etc.) is amended by adding at the end thereof the following new section:

"SEC. 38. EXPENDITURES TO PROVIDE NONDISCRIMINATORY PUBLIC ACCOMMODATIONS TO DISABLED INDIVIDUALS.

"(a) GENERAL RULE.—If an eligible small business elects to have this section apply to any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to 50 percent of so much of the eligible public accommodations access expenditures for the taxable year as exceed $250 but do not exceed $10,250.

"(b) LIMITATION BASED ON TAX LIABILITY.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and any section in this subpart having a lower number or letter designation than this section, over

"(2) the tentative minimum tax for the taxable year.

"(c) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(1) IN GENERAL.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation contained in subsection (b) (hereafter in this subsection referred to as the 'unused credit year') such excess shall be—

"(A) a public accommodations credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a public accommodations credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the credit allowable under subsection (a) for such taxable year.

"(2) AMOUNT CARRIED TO EACH YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under subsection (a) by reason of paragraph (3).

"(3) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any taxable year shall not exceed the amount by which the limitation under subsection (b) exceeds the sum of—

"(A) the credit allowable under subsection (a) for such taxable year, plus

"(B) the amounts which, by reason of this subsection, are added to the amount allowed for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(4) TAXABLE YEARS BEFORE DATE OF ENACTMENT.—No public accommodations credit may be carried back to a taxable year ending on or before the date of the enactment of this section.

"(d) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' means a person—

"(1) which has gross receipts for the preceding taxable year not exceeding $4,000,000, or

"(2) in the case of a person with such receipts exceeding $4,000,000, which employs not more than 30 full-time employees during such preceding taxable year.

For purposes of paragraph (2), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

"(e) ELIGIBLE PUBLIC ACCOMMODATIONS ACCESS EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible public accommodations access expenditures' means amounts paid or incurred by the taxpayer—

"(A) for the purpose of removing architectural, communication, or transportation barriers which prevent a public accommodation operated by the taxpayer from being accessible to, or usable by, an individual with a disability, or

"(B) for providing auxiliary aids and services to an individual with a disability who is an employee of, or using, a public accommodation operated by the taxpayer.

"(2) EXPENSES IN CONNECTION WITH NEW CONSTRUCTION ARE NOT ELIGIBLE.—The term 'eligible public accommodations access expenditures' shall not include amounts described in paragraph (1)(A) which are paid or incurred in connection with any facility first

placed in service after the date of the enactment of this section.

"(3) EXPENDITURES MUST MEET STANDARDS.—The term 'eligible public accommodations access expenditures' shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any barrier (or the provision of any auxiliary aids and services) meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DISABILITY, ETC.—The terms 'disability', 'public accommodation', and 'auxiliary aids and services' have the same respective meanings as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

"(2) CONTROLLED GROUPS.—

"(A) IN GENERAL.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.

"(B) DOLLAR LIMITATION.—The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.

"(3) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(4) SHORT YEARS.—The Secretary shall prescribe such adjustments as may be appropriate for purposes of paragraphs (1) and (2) of subsection (d) if the preceding taxable year is a taxable year of less than 12 months.

"(5) GROSS RECEIPTS.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(6) TREATMENT OF PREDECESSORS.—The reference to any person in paragraphs (1) and (2) of subsection (d) shall be treated as including a reference to any predecessor.

"(7) DENIAL OF DOUBLE BENEFIT.—In the case of any property with respect to which a credit amount is determined under this section—

"(A) any deduction or credit allowed under any other provision of this chapter shall be reduced by the amount of such credit, and

"(B) the adjusted basis of such property shall be reduced by the amount of such credit.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof other following new item:

"Sec. 30. Expenditures to provide nondiscriminatory public accommodations to disabled individuals."

(c) DEDUCTION REDUCED FOR ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—Section 190(c) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking "$35,000" and inserting "$15,000".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle C—Modifications of Earned Income Credit

SEC. 7301. MODIFICATIONS OF EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—So much of section 32 (relating to earned income credit) as precedes subsection (d) thereof is amended to read as follows:

"SEC. 32. EARNED INCOME.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

"(1) the basic earned income credit, and

"(2) the health insurance credit.

"(b) COMPUTATION OF CREDIT.—For purposes of this section—

"(1) BASIC EARNED INCOME CREDIT.—

"(A) IN GENERAL.—The term 'basic earned income credit' means an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

"(B) LIMITATION.—The amount of the basic earned income credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of—

"(i) the credit percentage of $5,714, over

"(ii) the phaseout percentage of so much of the adjusted gross income (or, if greater the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(C) PERCENTAGES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the percentages shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26.5	14.6
2 or more qualifying children	22.5	16.1

"(ii) TRANSITION PERCENTAGES.—

"(I) For taxable years beginning in 1991, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	15.3	10.9
2 or more qualifying children	15.7	11.2

"(II) For taxable years beginning in 1992, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	15.95	11.4
2 or more qualifying children	16.55	11.8

"(III) For taxable years beginning in 1993, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.25	12.3
2 or more qualifying children	18.25	13.0

"(2) HEALTH INSURANCE CREDIT.—

"(A) IN GENERAL.—The term 'health insurance credit' means an amount determined in the same manner as the basic earned income credit except that—

"(i) the credit percentage shall be equal to 5.5 percent, and

"(ii) the phaseout percentage shall be equal to 3.9 percent.

"(B) LIMITATION BASED ON HEALTH INSURANCE COSTS.—The amount of health insurance credit determined under subparagraph (A) for any taxable year shall not exceed the amounts paid by the taxpayer during the taxable year for insurance coverage—

"(i) which constitutes medical care (within the meaning of section 213(d)(1)(C)), and

"(ii) which includes at least 1 qualifying child.

For purposes of this subparagraph, the rules of section 213(d)(6) shall apply.

"(C) SUBSIDIZED EXPENSES.—A taxpayer may not take into account under subparagraph (B) any amount to the extent that—

"(i) such amount is paid, reimbursed, or subsidized by the Federal Government, a State or local government, or any agency or instrumentality thereof; and

"(ii) the payment, reimbursement, or subsidy of such amount is not includible in the gross income of the recipient.

"(D) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year not to claim the health insurance credit.

"(E) TRANSITION RULES.—In the case of taxable years beginning before 1994, the percentages under subparagraph (A) shall be determined as follows:

"In the case of taxable years beginning in:	The credit percentage is:	The phaseout percentage is:
1991	1.1	0.8
1992	2.475	1.8
1993	2.5	1.8

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any indi-

vidual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

"(2) EARNED INCOME.—

"(A) The term 'earned income' means—

"(i) wages, salaries, tips, and other employee compensation, plus

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

"(B) For purposes of subparagraph (A)—

"(i) the earned income of an individual shall be computed without regard to any community property laws,

"(ii) no amount received as a pension or annuity shall be taken into account, and

"(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if—

"(I) the taxpayer includes the name and age of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year, and

"(II) in the case of an individual who has attained the age of 1 year before the close of the taxpayer's taxable year, the taxpayer includes the taxpayer identification number of such individual on such return of tax for such taxable year.

"(ii) INSURANCE POLICY NUMBER.—In the case of any taxpayer with respect to which the health insurance credit is allowed under subsection (a)(2), the Secretary may require a taxpayer to include an insurance policy number or other adequate evidence of insurance in addition to any information required to be included in clause (i).

"(iii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i) or (ii).

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States.

"(4) COORDINATION WITH HOUSING PROGRAMS.—For purposes of—

"(A) the United States Housing Act of 1937,

"(B) section 101 of the Housing and Urban Development Act of 1965, and

"(C) section 235 and 236 of the National Housing Act,

the term 'income' does not include the amount of any individual's credit under this section."

(b) ADVANCE PAYMENT OF CREDIT.—Subparagraphs (B) and (C) of section 3507(c)(2) are amended to read as follows:

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit—

"(i) of not more than the credit percentage under section 32(b)(1)(C) for an eligible individual with 1 qualifying child of earned income not in excess of the amount of earned income taken into account under section 32(a)(1), which

"(ii) phases out between the amount of earned income at which the phaseout begins under section 32(b)(1)(B)(ii) and the amount of income at which the credit under section 32(a)(1) phases out for an eligible individual with 1 qualifying child, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit as if it were a credit determined under subparagraph (B) by substituting ½ of the amounts of earned income described in such subparagraph for such amounts."

(c) COORDINATION WITH DEDUCTIONS.—

(1) MEDICAL DEDUCTION.—Section 213(e) is amended to read as follows:

"(e) EXCLUSION OF AMOUNTS FOR WHICH CREDIT ALLOWED.—For purposes of this section, any expenses with respect to which a credit is allowed under section 21 or 32(a)(2) shall not be treated as an expense for medical care."

(2) SELF-EMPLOYED INDIVIDUALS.—Section 162(l), as amended by subtitle A, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 21.".

(d) CONFORMING AMENDMENTS.—Section 32(i)(2) is amended—

(1) by striking "or (ii)" in subparagraph (A)(1) thereof, and

(2) by striking clause (ii) of subparagraph (B) thereof and redesignating clause (iii) of subparagraph (B) thereof as clause (ii).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7302. DEPENDENT CARE CREDIT MADE REFUNDABLE.

(a) IN GENERAL.—Section 21 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE TO LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—Except as provided in section 6401(b)(3), for purposes of this title, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

"(3) COORDINATION WITH MINIMUM TAX.—A rule similar to the rule of section 32(h) shall apply with respect to the portion of any credit to which this subsection applies."

(b) LIMITATION ON REFUNDABLE PORTION.—Section 6401(b) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR SECTION 21(f).—

"(A) IN GENERAL.—The amount of the overpayment determined under paragraph (1) shall be reduced by 10 percent of the portion of such overpayment attributable to the credit allowed under section 21 and treated as allowable under subpart C of part IV of subchapter A of chapter 1 by reason of section 21(f).

"(B) ORDERING RULE.—For purposes of subparagraph (A), paragraph (1) shall be treated as having been applied as if the amount of tax described in such paragraph (if any) was first reduced by the portion of the credit described in paragraph (1)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7303. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507 of the Internal Revenue Code of 1986 to determine—

(1) the effectiveness of the advance payment system (including an analysis of why so few employees take advantage of such system), and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business, and

(3) if there are any other problems in the administration of such system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this title, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 7304. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this subtitle, the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care allowed under section 21 of the Internal Revenue Code of 1986 and the earned income credit and child health insurance under section 32 of such Code. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of

the availability of such credit and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

SEC. 7305. EXCLUSION FROM INCOME AND RESOURCES OF EARNED INCOME TAX CREDIT UNDER TITLES IV, XVI, AND XIX OF THE SOCIAL SECURITY ACT.

(a) EXCLUSIONS UNDER TITLE IV.—(1) Section 402(a)(7)(B) (42 U.S.C. 602(a)(7)(B)) is amended—

(1) by striking "or" before "(iii)"; and

(2) by inserting before the semicolon ", or (iv) for the month of receipt and the following month any refund of Federal income taxes made to such family by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit), and any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit)".

(3) Section 402(a)(18) (42 U.S.C. 602(a)(18)) is amended by inserting "or 8(A)(viii)" after "other than paragraph 8(A)(v)".

(b) EXCLUSIONS UNDER TITLE XVI.—(1) Section 1612(b) (42 U.S.C. 1382a(b)), as amended by sections 6016 and 6017 of this Act, is further amended—

(A) by striking "and" at the end of paragraph (17);

(B) by striking the period at the end of paragraph (18) and inserting "; and"; and

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

"(19) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).".

(2) Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 6017 of this Act, is further amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

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

"(10) for the month of receipt and the following month, any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).".

(c) EXCLUSIONS UNDER TITLE XIX.—Pursuant to section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)), the Secretary of Health and Human Services shall promulgate regulations to exempt from any determination of income and resources (for the month of receipt and the following month) under title XIX of the Social Security Act any refund of Federal income taxes made to an individual by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to an individual by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

(d) AFDC WAIVER OF OVERPAYMENT.—For the purposes of paragraph (18) of section 402(a) (42 U.S.C. 602(a)), a State agency designated under a State plan under such section 402(a) may waive any overpayment of aid that resulted from the receipt by a family of a refund of Federal income taxes by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) or any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit) during the period beginning on December 1, 1989, and ending on January 1, 1990.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) though (c) shall apply to determinations of income or resources made for any period after December 31, 1990.

SEC. 7306. COORDINATION WITH REFUND PROVISION.

For purposes of section 1324(b)(2) of title 31 of the United States Code, sections 21 and 32 of the Internal Revenue Code of 1986 (as amended by this Act) shall be considered to be credit provisions of the Internal Revenue Code of 1954 enacted before January 1, 1978.

Subtitle D—Revenue-Raising Provisions

PART I—EXCISE TAXES

Subpart A—Taxes Related to Health and the Environment

SEC. 7401. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$13.70".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.70".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.07".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.57".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.15".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.30".

(2) CREDIT FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) CREDIT FOR SMALL DOMESTIC PRODUCERS.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine described in subsection (b) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States.

"(2) REDUCTION IN CREDIT.—The credit allowable by paragraph (1) shall be reduced (but not below zero) by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year.

"(3) TIME FOR DETERMINING AND ALLOWING CREDIT.—The credit allowable by paragraph (1)—

"(A) shall be determined at the same time the tax is determined under subsection (a) of this section, and

"(B) shall be allowable at the time any tax described in paragraph (1) is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

"(4) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(5) DENIAL OF DEDUCTION.—No deduction under chapter 1 shall be allowed with respect to any amount of tax reduced by a credit allowable under this subsection.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year.

"(7) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A, see section 30A."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (b) after the application of subsection (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) CREDIT FOR SMALL DOMESTIC BREWERIES.—Paragraph (2) of section 5051(a) is amended to read as follows:

"(2) CREDIT FOR SMALL DOMESTIC BREWERIES.—

"(A) ALLOWANCE OF CREDIT.—In the case of a brewer who produces not more than 75,000 barrels of beer during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of $11 per barrel on the 1st 30,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

"(B) REDUCTION IN CREDIT.—The credit allowable by subparagraph (A) shall be reduced (but not below zero) by $11 for each barrel of beer brewed or produced in excess of 45,000 barrels of beer during the calendar year.

"(C) TIME FOR DETERMINING AND ALLOWING CREDIT.—The credit allowable by subparagraph (A)—

"(i) shall be determined at the same time the tax is determined under paragraph (1) of this subsection, and

"(ii) shall be allowable at the time any tax described in subparagraph (A) of this paragraph is payable as if the credit allowable by this paragraph constituted a reduction in the rate of such tax.

"(D) CONTROLLED GROUPS.—In the case of a controlled group, the 75,000 and 45,000 barrel quantities specified in subparagraphs (A) and (B) shall be applied to the controlled group, and the 30,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' in each place it appears in such subsection. Under regulations prescribed by the Secretary, principles similar to the principles of the preceding 2 sentences shall be applied to a group of brewers under common

control where 1 or more of the brewers is not a corporation.

"(E) DENIAL OF DEDUCTION.—No deduction under chapter 1 shall be allowed with respect to any amount of tax reduced by a credit allowable under this subsection.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this paragraph from benefiting any person who produces more than 75,000 barrels of beer during a calendar year.

"(G) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A, see section 30A."

(d) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by section 7212, is further amended by adding at the end thereof the following new section:

"SEC. 30A. SMALL DOMESTIC PRODUCERS OF WINE AND BEER.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount of the credit allowed under section 5041(c) or 5051(a)(2) not otherwise taken as a credit against any other tax.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and any section in this subpart having a lower number or letter designation than this section, over

"(2) the tentative minimum tax for the taxable year.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the amount of the credit allowable under subsection (a) exceeds the limitations contained in subsection (b), such excess shall be carried to the succeeding taxable year (and subject to the limitations in subsection (b)) added to the credit allowable under subsection (a) for such succeeding taxable year."

(2) CONFORMING AMENDMENT.—The table of sections for such subpart A is amended by adding at the end thereof the following new item:

"Sec. 30A. Small domestic producers of wine and beer."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(f) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1.20 per proof gallon in the case of distilled spirits,

(ii) 90 cents per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, if the rate of tax under section 5041 of such Code on such wine would have been determined after the application of subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990, the rate of tax imposed by paragraph (1) on such wine shall be the amount equal to the excess (if any) of—

(A) the rate of tax which would have been so determined after the application of such subsection (c), over

(B) the rate of tax actually determined on such wine under section 5041 of such Code.

A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $288 to the extent such taxes are attributable to distilled spirits,

(B) $270 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $288, $270, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 7402. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the wholesale price but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the wholesale price but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "1/2 cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON TOBACCO PRODUCTS.—

(1) IMPOSITION OF TAX.—On articles described in section 5701 of the Internal Revenue Code of 1986 manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, 18.75 cents per thousand.

(B) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, 2.125 percent of the wholesale price but not more than $5 per thousand.

(C) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(D) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.—On each book or set of cigarette papers containing more than 25 papers, 0.125 cent for each 50 papers or fractional part thereof; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarette papers, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES.—On cigarette tubes, 0.25 cent for each 50 tubes or fractional part thereof; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarette tubes, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF.—On snuff, 6 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.—On chewing tobacco, 2 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.—On pipe tobacco, 11.25 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound."

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (4) with respect to such person.

(3) EXCEPTION FOR ARTICLES OTHER THAN CIGARETTES.—No tax shall be imposed by paragraph (1) on any article described in section 5701 of such Code (other than cigarettes) held on any tax-increase date by any person if the aggregate amount of such article held by such person on such date does not result in a tax imposed by paragraph (1) of such article exceeding $60.

(4) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes on each article imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable. With respect to any article described in section 5701 of such Code (other than cigarettes), the Secretary may increase the dollar amount of the credit allowed under this paragraph in the administration of this subsection.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(6) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 7401(f)(6) shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 7403. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	Tetrachloromethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF3Cl
CFC-111	C2FCl5
CFC-112	C2F2Cl4
CFC-211	C3FCl7
CFC-212	C3F2Cl6
CFC-213	C3F3Cl5
CFC-214	C3F4Cl4
CFC-215	C3F5Cl3
CFC-216	C3F6Cl2
CFC-217	C3F7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67

"Calendar Year	Base Tax Amount
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

Subpart B—User-Related Taxes

SEC. 7405. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

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

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "11.75 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

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

"(iii) the deficit reduction rate is 4.75 cents (5.25 cents in the case of gasohol containing ethanol) a gallon."

(3) 15-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) RATES OF TAX AFTER DECEMBER 31, 1990, AND BEFORE JULY 1, 1991.—Paragraph (3) of section 4041(c) is amended by striking "12 cents a gallon over the Highway Trust Fund financing rate" and inserting "15 cents a gallon over the sum of the Highway Trust Fund financing rate and the deficit reduction financing rate".

(B) REFUND ON TAX.—

(i) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(ii) Subsection (o) of section 6427 (as redesignated by clause (i)) is amended to read as follows:

"(o) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 15.1 cents (12.1 cents during December 1990) multiplied by the number of gallons of gasoline so used."

(iii) Paragraph (1) of section 6427(i) is amended by striking "or (q)" and inserting "or (o)".

(iv) Clause (i) of section 6427(i)(2)(A) is amended by striking "and (q)" and inserting "and (o)".

(v) The amendments made by this subparagraph shall take effect on December 1, 1990.

(C) REPEAL OF TAX AFTER JUNE 30, 1991.—

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(iii) Paragraph (2) of section 6421(f) is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(iv) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 10/9th of the otherwise applicable rates under subsection (a)(2) in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 7.75 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 7.75 cents".

(C) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

"The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(6) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '11 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '5 cents' for '7.75 cents' each place it appears.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '13.5 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '7.5 cents' for '7.75 cents' each place it appears.

"(2) DEFICIT REDUCTION RATE.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting '2 cents (2.5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992, subsection (a)(2)(B)(iii) shall be applied by substituting '4.5 cents (5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'."

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the diesel fuel deficit reduction rate is 4.75 cents a gallon (5.25 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol)."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "19.75 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) 4.75-CENT TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel sold for use after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel sold for use after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel used after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel used after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(C) Section 4041(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 4.75 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(D) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall be taken into account the taxes imposed by sections 4041, 4081, and 4091 only to the extent attributable to section 4041(c) and the Highway Trust Fund financing rates and 20 percent of the deficit reduction rate under such sections.

"(B) there shall not be taken into account the taxes imposed by section 4041(a)(3) or 4091 on any diesel fuel used in a diesel-powered train."

(5) INCREASES IN TAXES NOT TO APPLY TO INTERCITY BUSES.—Subparagraph (A) of section 6427(b)(2) is amended by striking "shall not exceed 12 cents" and inserting "shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041 or 4091, as the case may be".

(6) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "13.75 cents" and by striking "10 cents" and inserting "15.28 cents", and

(ii) by striking "shall be 1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates under subsection (b)".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "13.75 cents".

(C) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(D) Subparagraph (A) of section 4041(b)(2) is amended to read as follows:

"(A) IN GENERAL.—In the case of—

"(i) qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate under such subsection,

"(ii) qualified ethanol fuel, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and

"(iii) qualified methanol or ethanol fuel, subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to sales and uses to which clause (i) or (ii) applies.".

(E) Paragraph (1) of section 4041(k) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) with respect to liquids containing any alcohol other than ethanol, the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates under such paragraphs,

"(B) with respect to liquids containing ethanol, the deficit reduction financing rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates under such paragraphs plus 0.5 cent per gallon, and".

(F) Section 4041(m)(1) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting before subparagraph (C) the following new subparagraphs:

"(A) with respect to partially exempt methanol, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate under such subsection,

"(B) with respect to partially exempt ethanol, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and".

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

(7) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991—

"(i) subsection (b)(2) shall be applied by substituting '17 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '11 cents' for '13.75 cents' each place it appears, and

"(II) '12.22 cents' for '15.28 cents'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992—

"(i) subsection (b)(2) shall be applied by substituting '19.5 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '13.5 cents' for '13.75 cents' each place it appears, and

"(II) '15 cents' for '15.28 cents'.

"(2) DIESEL FUEL DEFICIT REDUCTION RATE.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting '2 cents a gallon (2.5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992, subsection (b)(4) shall be applied by substituting '4.5 cents a gallon (5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'."'4.5 cents' for '4.75 cents'."

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(a)(4) (relating to tax on diesel and special fuels), as redesignated by subsection (b)(4)(C).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(d)(1) (relating to gasoline tax).

(5) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(6) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is amended by striking "1993" and inserting "1995".

(2) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking "1993" and inserting "1995".

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking "1993" and inserting "1995".

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking "1993" and inserting "1995".

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6)(A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking "subsection (j)" and by inserting "subsection (i)".

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking "1993" and inserting "1995".

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(5) Section 6427(f)(3) (relating to fuels used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "1.95 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JANUARY 1, 1991.—

(A) In the case of taxes imposed after November 30, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.4 cents" for "1.95 cents".

(B) In the case of taxes imposed after June 30, 1991, and before January 1, 1992, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.9 cents" for "1.95 cents".

(i) ESTABLISHMENT OF WETLANDS FUND ACCOUNT.—

(1) IN GENERAL.—Section 9504 (relating to aquatic resources trust fund) is amended—

(A) by striking "and" at the end of subsection (a)(2)(A),

(B) by striking the period at the end of subsection (a)(2)(B) and inserting ", and",

(C) by inserting after subsection (a)(2)(B) the following new subparagraph:

"(C) a Wetlands Fund Account.",

(D) by inserting "Wetlands Fund Account," before "Boat Safety Account" in subsection (d), and

(E) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) EXPENDITURES FROM WETLANDS FUND ACCOUNT.—Amounts in the Wetlands Fund Account shall be available, as provided by appropriation Acts, for making expenditures to carry out the purposes of any law which is substantially identical to sections 4 through 8 of S. 1731 of the 101st Congress as passed the Senate on August 2, 1990."

(2) TRANSFER OF NEW MOTORBOAT FUEL TAXES TO ACCOUNT.—Section 9503(c)(4) (relating to transfers from the trust fund for motorboat fuel taxes), as amended, is further amended—

(A) by inserting ", at the rates in effect before December 1, 1990" after "1995" in subparagraph (A)(i), and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new paragraph:

"(D) TRANSFER TO WETLANDS FUND ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraphs (A), (B), or (C),

shall be transferred by the Secretary from the Highway Trust Fund into the Wetlands Fund Account in the Aquatics Resources Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date (other than gasoline on which tax is imposed under section 4041(c)(2) of such Code) and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 4 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.5 cent per gallon in the case of the tax imposed on January 1, 1992.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before—

(i) May 31, 1991, in the case of the tax imposed on December 1, 1990,

(ii) September 15, 1991, in the case of the tax imposed on July 1, 1991, and

(iii) June 30, 1992, in the case of the tax imposed on January 1, 1992.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means December 1, 1990, July 1, 1991, and January 1, 1992.

(B) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on any tax-increase date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (5) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of—

(A) 2 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2.5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.25 cent per gallon in the case of the tax imposed on January 1, 1992.

(k) AMENDMENTS RELATING TO IMPROVED ENFORCEMENT OF GASOLINE TAX.—

(1) REPORTING REQUIREMENTS.—Section 4082 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(c) REPORTING REQUIRED OF TERMINAL OPERATORS.—

"(1) IN GENERAL.—Each person—

"(A) who is registered (or is required to be registered) under section 4101 as a terminal operator, and

"(B) from whose terminal gasoline is removed,

shall make a return (at such time and in such form as the Secretary may by regulations prescribe).

"(2) SPECIFIC REPORT REQUIREMENTS.—The report described in paragraph (1) shall specify—

"(A) the name, address, and registration number under section 4101 of the owner (or the owner of record in such cases as the Secretary deems appropriate) of the gasoline,

"(B) the amount of gasoline removed, and

"(C) such other information as the Secretary may require."

(2) REGISTRATION AND BOND.—

(A) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) REGISTRATION.—Each person—

"(1) before incurring any liability for tax under section 4091, or

"(2) required by the Secretary as the Secretary determines to be necessary to carry out this part,

shall register with the Secretary at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this subsection. Rules similar to the rules of section 4222(c) shall apply for purposes of this subsection.

"(b) BONDS AND LIENS.—Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

"(1) give a bond in such sum as the Secretary determines appropriate, and

"(2) agree to the imposition of a lien on such property (or rights to property) of such person as the Secretary determines appropriate.

If a lien is imposed pursuant to paragraph (2), the Secretary shall release such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by the Secretary) a bond in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to release a lien imposed pursuant to paragraph (2) in connection with a transfer of the property not later than 90 days after the date the request for such a release is made."

(B) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION.—Subsection (k) of section 6103 (relating to disclosure of certain returns and return information for tax administration

purposes) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES.—The name, address, and registration number of any person registered with the Secretary under subtitle D may be disclosed to the extent necessary to permit the effective administration of such subtitle. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed."

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting "and special rules" in the item relating to section 4082.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

SEC. 7405A. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after December 31, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) NONCOMMERCIAL AVIATION JET FUELS.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on January 1, 1991.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4041(c)(2) or 4091 of the Internal Revenue Code of 1986 before January 1, 1991, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline or fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be—

(i) 3 cents per gallon in the case of gasoline, and

(ii) 3.5 cents per gallon in the case of aviation fuel.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding gasoline or aviation fuel on January 1, 1991, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before June 30, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Gasoline or aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(iii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iv) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 2, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 2, 1991" and inserting "January 2, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(4) CONFORMING AMENDMENT.—Section 9502(b)(2) is amended by inserting "and the deficit reduction financing rate" after "rate".

(d) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 7405B. SENSE OF THE SENATE.

It is the sense of the Senate that the conferees be instructed to adjust the taxes imposed by sections 4041(a)(3) or 4091 on any diesel fuel used on a diesel-powered train so that such taxes will not exceed the increases to taxes imposed under sections 4041, 4081 and 4091 (other than on trains) which will not be dedicated to the Highway Trust Fund.

SEC. 7406. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) HARBOR MAINTENANCE COSTS.—Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) up to 100 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors within the United States, including all necessary dredged material management and disposal costs, including studies, monitoring, structures required for disposal, and any alternative method of disposal."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 7407. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 1, 1990.

SEC. 7408. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

Subpart C—Taxes on Luxury Items

SEC. 7409. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.

"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.

"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.

"Sec. 4002. Boats.

"Sec. 4003. Aircraft.

"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $250,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"(d) REFUND AND CREDIT OF TAX RESULTING FROM BUSINESS EXPERIENCE.—Any tax paid by a purchaser of any aircraft under this section may be refunded or credited to the purchaser, without interest, if after the 12-month period beginning on the date of purchase, such purchaser demonstrates to the satisfaction of the Secretary that 80 percent of the use of such aircraft during such period was in the purchaser's trade or business. Such refund or claim shall be filed with the purchaser's return with respect to income taxes under subtitle A, the due date of which first occurs after such period.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $30,000 ($100,000 in the case of a boat or $250,000 in the case of an aircraft).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.

"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer, the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such

jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State, territory, or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1990, and before January 1, 2000.

Subpart D—Telephone Tax

SEC. 7410. PERMANENT EXTENSION OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Paragraph (2) of section 4251(b) is amended by striking "percent;" and all that follows through the period and inserting "percent."

(b) TIME FOR DEPOSIT OF TELEPHONE EXCISE TAXES.—Section 4251 is amended by adding at the end thereof the following new subsection:

"(d) TIME FOR DEPOSIT OF TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by this section with respect to amounts considered collected by such person during any semi-monthly period, such deposits shall be made not later than the third day (not including Saturdays, Sundays, or legal holidays) after the close of the first week of the second semi-monthly period following the period to which such amounts relate."

(c) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.—Section 4253 is amended by adding at the end thereof the following new subsection:

"(k) FILING OF EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

"(2) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

"(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

"(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on January 1, 1991.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to the payment of taxes considered collected for semi-monthly periods beginning after December 31, 1990.

(3) SUBSECTION (c).—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to any claim for exemption made after the date of the enactment of this Act.

(B) DURATION OF EXISTING CERTIFICATES.—Any annual certificate of exemption effective on the date of the enactment of this Act shall remain effective until the end of the annual period.

PART II—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 7411. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION FOR FIRST $5,000,000 OF SPECIFIED POLICY ACQUISITION EXPENSES.—

"(1) IN GENERAL.—Paragraph (2) of subsection (a) shall be applied with respect to so much of the specified policy acquisition expenses of an insurance company for any taxable year as does not exceed $5,000,000 by substituting '60-month' for '120-month'.

"(2) PHASE-OUT.—If the specified policy acquisition expenses of an insurance company exceed $10,000,000 for any taxable year, the $5,000,000 amount under paragraph (1) shall be reduced (but not below zero) by the amount of such excess.

"(3) SPECIAL RULE FOR MEMBERS OF CONTROLLED GROUP.—In the case of any controlled group—

"(A) all insurance companies which are members of such group shall be treated as 1 person for purposes of this subsection, and

"(B) the amount to which paragraph (1) applies shall be allocated among such companies in such manner as the Secretary may prescribe.

For purposes of the preceding sentence, the term 'controlled group' means any controlled group of corporations as defined in section 1563(a); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply, and subsection (b)(2)(C) of section 1563 shall not apply to the extent it excludes a foreign corporation to which section 842 applies.

"(4) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS.—This subsection shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.85 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 2.2 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts or noncancellable accident and health insurance contracts, and

"(C) 8.3 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (or any combination thereof).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(4) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(h) SECRETARIAL AUTHORITY TO ADJUST CAPITALIZATION AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may provide that a type of insurance contract will be treated as a separate category for purposes of this section (and prescribe a percentage applicable to such category) if the Secretary determines that the deferral of acquisition expenses for such type of contract which would otherwise result under this section is substantially greater than the deferral of acquisition expenses which would have resulted if actual acquisition expenses (including indirect expenses) and the actual useful life for such type of contract had been used.

"(2) ADJUSTMENT TO OTHER CONTRACTS.—If the Secretary exercises his authority with respect to any type of contract under paragraph (1), the Secretary shall adjust the percentage which would otherwise have applied under subsection (c)(1) to the category which includes such type of contract so that the exercise of such authority does not result in a decrease in the amount of revenue received under this chapter by reason of this section for any fiscal year.

"(i) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

"(j) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30,

1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990, except that, in the case of a small insurance company, such amendment shall apply to taxable years beginning after December 31, 1989. For purposes of this paragraph, the term "small insurance company" means any insurance company which meets the requirements of section 806(a)(3) of the Internal Revenue Code of 1986; except that paragraph (2) of section 806(c) of such Code shall not apply.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) by a company which is not a small insurance company shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 7412. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsection (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3½ percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 7413. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 7414. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) ADJUSTMENTS.—In applying section 481 of the Internal Revenue Code of 1986 with respect to the change referred to in subparagraph (A)—

(i) only 77 percent of the net amount of adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall be taken into account, and

(ii) the portion of such net adjustments which is required to be taken into account by the taxpayer (after the application of clause (i)) shall be taken into account over a period not to exceed 4 taxable years beginning with the taxpayer's 1st taxable year beginning after December 31, 1989.

(3) TREATMENT OF COMPANIES WHICH TOOK INTO ACCOUNT SALVAGE RECOVERABLE.—In the case of any insurance company which took into account salvage recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 23 percent of the discounted amount of estimated salvage recoverable as of the close of such last taxable year shall be allowed as a deduction ratably over its 1st 4 taxable years beginning after December 31, 1989.

(4) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

23 percent of such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(5) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined by applying the principles of paragraph (2)(B).

Subpart C—Waiver of Estimated Tax Penalties

SEC. 7415. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART III—COMPLIANCE PROVISIONS

SEC. 7421. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such des-

ignated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 7422. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 7423. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7424. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 7425. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by

paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 7624. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART IV—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 7431. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 7432. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '40 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 20 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 15 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 7433. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 7434. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(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 used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 7435. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "404(a),".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as

assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART V—CORPORATE PROVISIONS

SEC. 7441. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(A).—SECTIONS 311 AND 336(A) SHALL NOT APPLY TO ANY DISTRIBUTION REFERRED TO IN PARAGRAPH (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50

percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 7442. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 7443. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 7444. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 7445. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence:

"Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) is pursuant to a transaction—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART VI—EMPLOYMENT TAX PROVISIONS

SEC. 7451. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $89,000 for calendar year 1991, and

"(B) for any calendar year after 1991, the applicable contribution base for the preceding year adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230(b) of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENT.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b), the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

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

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

SEC. 7452. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1991.

(b) TRANSITION IN TAX RATES.—In applying sections 3101(b) and 3111(b) of the Internal Revenue Code to service which, but for the amendment made by subsection (a), would not constitute employment for purposes of such sections and which is performed—

(1) after December 31, 1991, and before January 1, 1993, the percentage of wages rate of tax under such sections shall be 0.8 percent (instead of 1.45 percent), and

(2) after December 31, 1992, and before January 1, 1994, the percentage of wages rate of tax under such sections shall be 1.35 percent (instead of 1.45 percent).

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1992, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1992, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1992.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

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

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular atten-

tion to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.".

SEC. 7453. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self employment;".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

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

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1991.

SEC. 7454. EXTENSION OF FUTA SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of FUTA tax) is amended—

(1) by striking "1988, 1989, and 1990" in paragraph (1) and inserting "1988 through 1995", and

(2) by striking "1991" in paragraph (2) and inserting "1996".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1990.

SEC. 7455. INCREASE IN TIER 2 RAILROAD RETIREMENT TAXES.

(a) TAX ON EMPLOYEES.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by striking "4.90 percent" and inserting "5 percent".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (2) of section 3211(a) of such Code (relating to rate of tax) is amended to read as follows:

"(2) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 15.05 percent of the compensation received during any calendar year by such employee representative for services rendered by such employee representative."

(c) TAX ON EMPLOYERS.—Subsection (b) of section 3221 of such Code (relating to rate of tax) is amended by striking "16.10 percent" and inserting "16.4 percent".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation received after December 31, 1990.

(2) EMPLOYER TAX.—The amendment made by subsection (c) shall apply to compensation paid after December 31, 1990.

SEC. 7456. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

(a) IN GENERAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) of the Internal Revenue Code of 1986, revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1991".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 30, 1990.

SEC. 7457. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 7458. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 7461. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) IN GENERAL.—Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 68. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—

"(1) 5 percent of the excess of adjusted gross income over the applicable amount, or

"(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

"(b) APPLICABLE AMOUNT.—For purposes of this section, the term 'applicable amount' means $100,000 ($50,000 in the case of a separate return by a married individual within the meaning of section 7703).

"(c) EXCEPTION FOR CERTAIN ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'itemized deductions' does not include—

"(1) the deduction under section 213 (relating to medical, etc. expenses),

"(2) any deduction for investment interest (as defined in section 163(d)), and

"(3) the deduction under section 165(a) for losses described in section 165(c)(3).

"(d) COORDINATION WITH OTHER LIMITATIONS.—This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

"(e) EXCEPTION FOR ESTATES AND TRUSTS.—This section shall not apply to any estate or trust."

(b) COORDINATION WITH MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply."

(c) MINIMUM TAX TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS OF APPRECIATED

PROPERTY.—Section 57(a)(6)(A) is amended by inserting "(other than tangible personal property)" after "capital gain property".

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 68. Overall limitation on itemized deductions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7462. DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.

(a) GENERAL RULE.—Section 163 (relating to interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.—

"(1) IN GENERAL.—In the case of a corporation, no deduction shall be allowed under this subtitle for any interest—

"(A) paid or accrued under subtitle F on any underpayment of tax imposed by this title or on any other liability arising under this title, and

"(B) attributable to periods after the 30th day following the earlier of—

"(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

"(ii) the date on which the deficiency notice under section 6212 is sent.

"(2) NOTICE FOR TAXES OTHER THAN INCOME TAXES.—In the case of any underpayment of tax imposed by this title other than under chapter 1, or any other liability imposed by this title not relating to chapter 1, paragraph (1)(B) shall be applied by reference to any letter or notice provided by the Secretary which is similar to the letter or notice described in paragraph (1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest attributable to periods after December 31, 1990.

SEC. 7463. DENIAL OF DEDUCTION FOR UNNECESSARY COSMETIC SURGERY.

(a) IN GENERAL.—Section 213(b) (relating to limitation with respect to medicine and drugs) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

"(2) COSMETIC SURGERY.—

"(A) IN GENERAL.—An amount paid during the taxable year for cosmetic surgery or other similar procedures shall not be taken into account under subsection (a), unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) DEFINITION.—For purposes of this paragraph, the term 'cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle E—Other Provisions

SEC. 7471. TAX-RELATED USER FEES MADE PERMANENT.

(a) IN GENERAL.—Section 10511(c) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "and before September 30, 1990".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 29, 1990, except that no advance payment shall be required for any fee for any requests filed after September 29, 1990, and before the 30th day after the date of the enactment of this Act.

SEC. 7472. PUBLIC DEBT LIMIT EXTENSION.

The public debt limit as set forth in subsection (b) of section 3101 of title 31, United States Code, shall be increased by so much of an amount not exceeding $321,000,000,006, as is necessary.

SEC. 7473. REPORTS OF REFUNDS AND CREDITS.

(a) IN GENERAL.—Section 6405 (relating to reports of refunds and credits) is amended—

(1) by striking "$200,000" in subsection (a) and inserting "$1,000,000"; and

(2) by striking "$200,000" in subsection (b) and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act.

TITLE VIII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 8001. ELIMINATION OF LUMP-SUM CREDIT FOR INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) ELIMINATION OF LUMP-SUM CREDIT.—(1) Sections 8343a and 8420a of title 5, United States Code, are repealed.

(2)(A) The table of sections for chapter 83 of title 5, United States Code, is amended by striking out the item relating to section 8343a.

(B) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8420a.

(3) Section 8424(a) of title 5, United States Code, is amended by striking out "Except as provided in section 8420a, payment" and inserting in lieu thereof "Payment".

(4) Section 807(e) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)) is repealed.

(5) Section 294 of the Central Intelligence Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is repealed.

(6) The provisions of this subsection shall be effective on and after November 2, 1990, and (except as provided under subsection (b)) shall apply to any annuity payable to an employee or Member with a commencement date on or after November 2, 1990 in accordance with regulations prescribed by the Office of Personnel Management.

(b) LUMP-SUM CREDIT FOR ALTERNATIVE FORMS OF ANNUITIES ON OR BEFORE NOVEMBER 1, 1990.—(1) Notwithstanding any other provision of law, the provisions of section 4005 of the Omnibus Budget Reconciliation Act of 1989 shall apply to any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, if the annuity of such employee or Member commences on or before November 1, 1990.

(2) Notwithstanding any other provision of law, the provisions repealed under subsection (a) (4) and (5) shall apply to any lump-sum credit payable to an employee (to which such provisions would otherwise apply) if the annuity of such employee commences on or before November 1, 1990.

(c) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 8002. UNITED STATES POSTAL SERVICE CONTRIBUTIONS FOR CERTAIN EMPLOYEE AND ANNUITANT HEALTH BENEFITS.

Section 8906(g)(2) of title, 5, United States Code, is amended to read as follows:

"(2) The Government contributions authorized by this section for health benefits for an annuitant shall be paid by—

"(A) the United States Postal Service, in the case of annuitant whose eligibility for an annuity is based on a separation from service with the Postal Service on or after June 30, 1971, or who is a survivor of such an annuitant or a survivor of an employee who died while employed by the Postal Service on or after June 30, 1971; or

"(B) the government of the District of Columbia, in the case of an annuitant whose eligibility for an annuity is based on a separation from service with such government, or who is a survivor of such an annuitant or a survivor of an employee who died while employed by such government."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 8003. PROHIBITION OF CERTAIN TAXATION ON PAYMENTS FROM THE EMPLOYEES' HEALTH BENEFITS FUND.

Section 8909 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) No tax, fee, or other monetary payment may be imposed directly or indirectly on a carrier or an underwriting or plan administration subcontractor of an approved health benefit plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to payments made from the Fund.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

SEC. 8004. COMPUTER MATCHING OF FEDERAL BENEFITS INFORMATION AND PRIVACY PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

(b) VERIFICATION REQUIREMENTS AMENDMENT.—(1) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, redyce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(2) Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

SEC. 8005. APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Section 8904 of title 5, United States Code, is amended by inserting "(a)" before the first sentence and by adding at the end of the section the following new subsection:

"(b)(1) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not covered to receive medicare hospital and insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), to pay a charge imposed by any health care provider, for inpatient hospital services which are covered for purposes of benefit payments under this chapter and part A of title XVIII of the Social Security Act, to the extent that such charge exceeds applicable limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww). Hospital providers who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1814(a) and 1866 of the Social Security Act (42 U.S.C. 1395f(a) and 1395cc), whereby the participating provider accepts medicare benefits as full payment for covered items and services after applicable patient copayments under section 1813 of such Act (42 U.S.C. 1395e) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for services described in the preceding sentence. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital is found to knowingly and willfully violate this subsection on a repeated basis and the Secretary may invoke appropriate sanctions in accordance with section 1866(b)(2) of the Social Security Act (42 U.S.C. 1395cc(b)(2)) and applicable regulations.

"(2) Notwithstanding any other provision of law, the Secretary of Health and Human Services and the Director of the Office of Personnel Management, and their agents, shall exchange any information necessary to implement this subsection.".

(b) EFFECTIVE DATES.—The amendments made by this section apply to inpatient hospital admissions that occur on and after October 1, 1990.

SEC. 8006. PORTABILITY OF BENEFITS FOR EMPLOYEES CONVERTING TO THE CIVIL SERVICE SYSTEM.

(a) SHORT TITLE.—This section may be cited as the "Portability of Benefits for Nonappropriated Fund Employees Act of 1990".

(b) DEFINITIONAL AMENDMENT.—Section 2105(c) of title 5, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) laws administered by the Office of Personnel Management, except—

"(A) section 7204;

"(B) as otherwise specifically provided in this title;

"(C) the Fair Labor Standards Act of 1938; or

"(D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or"; and

(2) in paragraph (2), by striking "chapter 84" and inserting "chapter 84 (except to the extent specifically provided therein)".

(c) AMENDMENT RELATING TO ORDER OF RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended to read as follows:

"(C) is entitled to credit for—

"(i) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(ii) service rendered as an employee described in section 2105(c) if such employee moves or has moved, on or after January 1, 1987, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

(d) AMENDMENT RELATING TO PAY ON A CHANGE OF POSITION.—Section 5334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c). In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.".

(e) AMENDMENT RELATING TO PERIODIC STEP INCREASES.—Section 5335 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.".

(f) AMENDMENT RELATING TO GRADE AND PAY RETENTION.—Section 5365(b) of title 5, United States Code, is amended by adding at the end the following:

"Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

(g) AMENDMENT RELATING TO PAY FOR ACCUMULATED AND ACCRUED LEAVE.—Section 5551(a) of title 5, United States Code, is amended by adding at the end the following new sentence: "For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).".

(h) AMENDMENTS RELATING TO TRANSFERS BETWEEN POSITIONS UNDER DIFFERENT LEAVE SYSTEMS.—Section 6308 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "The annual"; and

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

"(b) The annual leave, sick leave, and home leave to the credit of a nonappropriated fund employee of the Department of Defense or the Coast Guard described in section 2105(c) who moves without a break in service of more than 3 days to a position in

the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit. The annual leave, sick leave, and home leave to the credit of an employee of the Department of Defense or the Coast Guard who is subject to this subchapter and who moves without a break in service of more than 3 days to a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c), shall be transferred to the employee's credit under the nonappropriated fund instrumentality. The Secretary of Defense or the Secretary of Transportation, as appropriate, may provide for a transfer of funds in an amount equal to the value of the transferred annual leave to compensate the gaining entity for the cost of a transfer of annual leave under this subsection.".

(i) AMENDMENTS TO INCLUDE ADDITIONAL SERVICE FOR LEAVE ACCRUAL PURPOSES.—(1) Section 6312 is amended to read as follows:

"§ 6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees

"(a) Credit shall be given in determining years of service for the purpose of section 6303(a) for—

"(1) service as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(2) service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) by an employee who has moved without a break in service of more than 3 days to a position subject to this subchapter in the Department of Defense or the Coast Guard, respectively.

"(b) The provisions of subsections (a) and (b) of section 6308 for transfer of leave between leave systems shall apply to the leave systems established for such county office employees and employees of such Department of Defense and Coast Guard nonappropriated fund instrumentalities, respectively.".

(2) The item relating to section 6312 in the table of sections for chapter 63 of title 5, United States Code, is amended to read as follows:

"6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees.".

(j) Amendments Relating to the Civil Service Retirement System.—(1) Section 8331 of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (1)(J);

(B) by inserting "and" after the semicolon at the end of paragraph (1)(K);

(C) by inserting after paragraph (1)(K) the following new paragraph:

"(L) an employee described in section 2105(c) who has made an election under section 8347(p)(1) to remain covered under this subchapter;";

(D) in paragraph (1)(ii), by striking the matter following "Government employees" through the semicolon and inserting "(besides any employee excluded by clause (x), but including any employee who has made an election under section 8347(p)(2) to remain covered by a retirement system established for employees described in section 2105(c));"; and

(E) in paragraph (7), by striking "and Gallaudet College;" and inserting "Gallaudet College, and, in the case of an employee described in paragraph (1)(L), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(2) Section 8347 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p)(1) Under regulations prescribed by the Office of Personnel Management, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this subchapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this subchapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c); and

"(D) is excluded from coverage under chapter 84 by section 8402(b),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined in section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described in section 2105(c) rather than be subject to this subchapter.".

(k) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (11)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by inserting "and" after the semicolon at the end of subparagraph (B);

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

"(C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;";

(iv) by striking "or" at the end of clause (ii);

(v) by inserting "or" after the semicolon at the end of clause (iii); and

(vi) by inserting after clause (iii) the following new clause:

"(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);"; and

(B) in paragraph (15), by striking "and Gallaudet College;" and inserting ", Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(2) Section 8461 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n)(1) Under regulations prescribed by the Office, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this chapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described by section 2105(c); and

"(D) is not eligible to make an election under section 8347(p),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.".

(l) AMENDMENTS RELATING TO HEALTH BENEFITS.—Section 8901(3)(A) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by inserting "or" after the semicolon at the end of clause (iii); and

(3) by inserting after clause (iii) the following new clause:

"(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(p)(2) or 8461(n)(2) to remain subject to such a system;".

(m) APPLICABILITY.—(1) The amendments made by this section shall apply with respect to any individual who, on or after January 1, 1987—

(A) moves without a break in service of more than 3 days from employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard that is described in section 2105(c) of title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is not described in such section 2105(c); or

(B) moves without a break in service from employment in the Department of Defense or the Coast Guard that is not described in such section 2105(c) to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, that is described in such section 2105(c).

(2) The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Executive Director of the Federal Retirement Thrift Investment Board, as applicable, shall take such actions as may be practicable to ensure that each individual who has moved as described under paragraph (1) on or after January 1, 1987, and before the date of enactment of this Act, receives the benefit of the amendments made by this section as if such amendments had been in effect at the time such individual so moved. Each such individual who wishes to make an election of retirement coverage under the amendments made by subsection (j) or (k) of this section shall complete such election within 180 days after the date of enactment of this Act.

(n) CLARIFYING PROVISIONS RELATING TO TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM.—(1) For the purpose of this section, the term "nonappropriated fund instrumentality" means a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c) of title 5, United States Code.

(2)(A) If an individual makes an election under section 8347(p)(1) of title 5, United States Code, to remain covered by subchapter III of chapter 83 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and contribute to the Thrift Savings Fund such sums as are required for such individual in accordance with section 8351 of such title.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8347(p)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(3)(A) If an individual makes an election under section 8461(n)(1) of title 5, United States Code, to remain covered by chapter 84 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and shall contribute to the Thrift Savings Fund the funds deducted, together with such other sums as are required for such individual under subchapter III of such chapter.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8461(n)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(4) If an individual makes an election under section 8347(p)(2) or 8461(n)(2) of title 5, United States Code, to remain covered by a retirement system established for employees described in section 2105(c) of such title, any Government agency thereafter employing such individual shall, in lieu of any deductions or contributions for which it would otherwise be responsible with respect to such individual under chapter 83 or 84 of such title, make such deductions from pay and such contributions as would be required (under the retirement system for nonappropriated fund employees involved) if it were a nonappropriated fund instrumentality. Any such deductions and contributions shall be remitted to the Department of Defense or the Coast Guard, as applicable, for transmission to the appropriate retirement system.

SEC. 8007. FEDERAL EMPLOYEE HEALTH BENEFITS REFORM.

(a) HOSPITALIZATION-COST-CONTAINMENT MEASURES.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(n) A contract for a plan described by section 8903(1), (2), or (3), or section 8903a, shall require the carrier—

"(1) to implement hospitalization-cost-containment measures, including measures—

"(A) for verifying the medical necessity of any proposed treatment or surgery;

"(B) for determining the feasibility or appropriateness of providing services on an outpatient rather than on an inpatient basis;

"(C) for determining the appropriate length of stay (through concurrent review or otherwise) in cases involving inpatient care; and

"(D) involving cases management, if the circumstances so warrant; and

"(2) to establish incentives to encourage compliance with measures under paragraph (1).".

"(b) IMPROVED CASH MANAGEMENT.—Section 8909(a) of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

"Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made only on a checks-presented basis (as defined under regulations of the Department of the Treasury).".

(c) IMPROVED COORDINATION WITH MEDICARE.—Section 8910 of title 5, United States Code, is amended by adding at the end the following:

"(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social Security Act in order to ensure that payments under coordination of benefits with Medicare do not exceed the statutory maximums which physicians may charge Medicare enrollees.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 1991, and shall apply with respect to contract years beginning on or after that date.

SEC. 8008. 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) In general.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years"; and

(2) by striking "6-year period" in paragraph (2) and inserting "10-year period".

(b) Effective Date.—The amendments made by subsection (a) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

TITLE IX—COMMITTEE ON THE JUDICIARY

SEC. 9001. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES.—There shall be a surcharge, during fiscal years 1991 through 1995, of 56 percent, rounded by standard arithematic rules, on all fees authorized by subscriptions (a) and (b) of section 41 of title 35, United States Code.

(b) USE OF SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all surcharges collected by the Patent and Trademark Office shall be credited to a separate account established in the Department of Treasury and ascribed to the Patent and Trademark activities of the Department of Commerce as offsetting receipts, to be available only to the Patent and Trademark Office to the extent provided in advance in appropriations acts for all authorized activities and operations of the Office, and to remain available until expended.

(c) REVISIONS.—In fiscal years 1991 through 1995, surcharges established under subsection (a) may be revised periodically by the Commissioner of Patents and Trademarks, subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, of patent and trademark user fees are collected.

(1) $91,000,000 in fiscal year 1991.

(2) $95,000,000 in fiscal year 1992.

(3) $99,000,000 in fiscal year 1993.

(4) $103,000,000 in fiscal year 1994.

(5) $107,000,000 in fiscal year 1995.

(d) REPEAL.—Section 105(a) of Public Law 100-703 (102 Stat. 4675) is repealed.

(e) REPORT ON FEES.—The Commissioner of Patents and Trademarks shall study the structure of all fees collected by the Patent and Trademark Office and, not later than May 1, 1991, shall submit to the Congress a report on all fees to be collected by the office in fiscal years 1992 through 1995. The report shall include a proposed schedule of fees that would distribute the surcharge provided by subsection (a) among all fees collected by the office, and recommendations for any statutory changes that may be necessary to implement the proposals contained in the report.

SEC. 9002. FEDERAL AGENCY STATUS.

For the purposes of Federal law, the Patent and Trademark Office shall be considered a Federal Agency. In particular, the Patent and Trademark Office shall be subject to all Federal laws pertaining to the procurement of goods and services that would apply to a Federal agency using appropriated funds, including the Federal Property and Administrative Services Act of 1949 and the Office of Federal Procurement Policy Act.

SEC. 9003. EFFECT ON OTHER LAW.

Except for section 6001(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

TITLE X—LABOR

SEC. 10001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Labor Reconciliation Act of 1990".

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

termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 20 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion in an amount equal to the excess (if any) of—

"(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer (or, if any limitation under section 415 applies, the period allowable under such section).

"(ii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause.

"(iii) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) BENEFIT INCREASES.—The requirements of this paragraph are met if either of the following requirements are met:

"(A) PRO RATA INCREASE IN BENEFITS.—

"(i) IN GENERAL.—A plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(I) have an aggregate present value not less than 15 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(II) take effect immediately on the termination date.

"(ii) PRO RATA INCREASE.—For purposes of clause (i), a pro rata increase is an increase in the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under clause (i)(I) as—

"(I) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(II) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under clause (i)(I).

"(B) BENEFIT INCREASE OF 20 PERCENT OR GREATER.—The aggregate present value of the increases in nonforfeitable accrued benefits described in paragraph (2)(B)(ii) is 20 percent or more of the maximum amount which the employer could receive as an employer reversion without regard to this subsection.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an employer contribution for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 1898. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part all apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this part shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension

Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

PART 2—TRANSFERS TO RETIREE HEALTH ACCOUNTS

SEC. 1811. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980.

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health

benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits which are provided to—

"(i) former employees who, immediately before the qualified transfer, are entitled to receive benefits through the account by reason of their participation under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year.

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term 'health benefits account' means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) of the Internal Revenue Code of 1986 is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 10312. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "404(a),".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART 3—PREMIUM RATES

SEC. 10321. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

TITLE XI—VETERANS

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Subtitle A—Compensation and Pension

SEC. 11001. COMPENSATION BENEFITS FOR INCOMPETENT VETERANS HAVING ESTATES.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c), the following new subsection (d):

"(d)(1) In any case in which a veteran having neither spouse, child, nor dependent parent is rated by the Secretary in accordance with regulations as being incompetent and the value of the veteran's estate exceeds $25,000, further payment of compensation to which the veteran would otherwise be entitled may not be made until the value of such estate is reduced to less than $10,000.

"(2)(A) Subject to subparagraph (B) of this paragraph, if a veteran denied payment of compensation pursuant to paragraph (1) of this subsection is subsequently rated as being competent, the Secretary shall pay to the veteran a lump sum equal to the total of the compensation which was denied the veteran pursuant to such paragraph. The Secretary shall make the lump-sum payment after the end of 90 days following the date of the competency rating.

"(B) A lump-sum payment shall not be made under this paragraph to a veteran who, within such 90-day period, dies or is again rated by the Secretary as being incompetent.

"(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

"(4) For the purposes of this subsection, the term 'veteran's estate' means the market value (exclusive of the value of any mortgages or encumbrances) of all real and personal property owned by a veteran other than a principal residence and other personal effects suitable to, and consistent with, such veteran's reasonable mode of living, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payments of compensation for months after October 1990.

SEC. 11002. ELIMINATION OF PRESUMPTION OF TOTAL DISABILITY IN DETERMINATION OF PENSION FOR CERTAIN VETERANS.

(a) ELIMINATION OF PRESUMPTION.—Section 502(a) of title 38, United States Code, is amended by striking out "sixty-five years of age or older or".

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect with respect to veterans who, on November 1, 1990, are not receiving pension under laws administered by the Secretary of Veterans Affairs.

SEC. 11003. REDUCTION IN PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, as amended by section 11001, is further amended by adding at the end the following:

"(g)(1) For the purposes of this subsection—

"(A) the term 'Medicaid plan' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

"(B) the term 'nursing facility' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r).

"(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

"(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

"(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

"(5) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 1, 1990.

SEC. 11004. ELIGIBILITY OF REMARRIED SURVIVING SPOUSES FOR REINSTATEMENT OF DEPENDENCY AND INDEMNITY COMPENSATION UPON BECOMING SINGLE.

(a) IN GENERAL.—Section 103(d) of title 38, United States Code, is amended—

(1) in paragraph (2), by inserting "(other than dependency and indemnity compensation or pension)" after "benefits"; and

(2) in paragraph (3), by striking out "shall not apply" and inserting in lieu thereof "shall apply only to dependency and indemnity compensation and to pension".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to persons remarrying after October 30, 1990.

SEC. 11005. POLICY REGARDING COST-OF-LIVING INCREASES IN COMPENSATION RATES.

(a) POLICY.—The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 4.5-percent increase, all increases will be rounded down to the next lower dollar, and the increases for disabilities rated at 10 percent and at 20 percent shall be $1 less than the amount equal to a 4.5-percent increase.

(b) PROVISION NOT AUTHORITY TO INCREASE RATES.—Subsection (a) shall not be construed to increase or to authorize the Secretary of Veterans Affairs to increase the rates of compensation and of dependency and indemnity compensation referred to in such subsection.

Subtitle B—Health Care

SEC. 11011. MEDICAL-CARE COST RECOVERY.

(a) APPLICABILITY.—Section 629(a)(2) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof "; or"; and

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

"(E) for which care and services are furnished under this chapter to a veteran who—

"(i) has a service-connected disability; and

"(ii) is entitled to care (or payment of the expenses of care) under a health-plan contract.".

(b) MAXIMUM AMOUNT RECOVERABLE.—Clause (B) of section 629(c)(2) of such title is amended by striking out "in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with" and inserting in lieu thereof "if provided by".

(c) ESTABLISHMENT OF MEDICAL-CARE COST RECOVERY FUND.—Section 629(g) of such title is amended to read as follows:

"(g)(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Medical-Care Cost Recovery Fund (hereafter referred to in this section as the 'Fund').

"(2) Amounts recovered or collected under this section shall be credited to the Fund.

"(3) Sums in the Fund shall be available to the Secretary for the following:

"(A) Payment of necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter, including—

"(i) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(ii) personnel training and travel costs;

"(iii) personnel and administrative costs for attorneys in the Office of General Counsel of the Department and for support personnel of such office;

"(iv) other personnel and administrative costs; and

"(v) the costs of any contract for identification, billing, or collection services.

"(B) Payment of the Secretary for reasonable charges, as determined by the Secretary, imposed for (i) services and utilities (including light, water, and heat) furnished by the Secretary, (ii) recovery and collection activities under this section, and (iii) administration of the Fund.

"(C) Payment of costs related to the administration and collection of payments required under section 610(f) of this title for hospital care or nursing home care, under section 612(f) of this title for medical services, and under section 622A of this title for medications.

"(4) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30 of the preceding year minus any part of such balance that the Secretary of Veterans Affairs determines is necessary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3).".

(d) TRANSFER TO FUND.—

(1) AMOUNT TO BE TRANSFERRED.—The Secretary of the Treasury shall transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Medical-Care Cost Recovery Fund established by section 629(g) of title 38, United States Code (as amended by subsection (c)). The amount so transferred shall be available until the end of September 30, 1991, for the support of the equivalent of 800 full-time employees and other expenses described in paragraph (3) of such section.

(2) REIMBURSEMENT OF LOAN GUARANTY REVOLVING FUND.—Notwithstanding section 629(g) of title 38, United States Code (as amended by subsection (c)), the first $25,000,000 recovered or collected by the De-

partment of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities shall be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED.—For the purposes of this subsection, the term "third-party medical recovery activities" means recovery and collection activities carried out under section 629 of title 38, United States Code.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1990.

SEC. 11012. COPAYMENT FOR MEDICATION.

(a) COPAYMENT REQUIRED.—

(1) IN GENERAL.—Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 622 the following new section:

"§ 622A. Copayment for medication

"(a) The Secretary shall require a veteran (other than a veteran with a service-connected disability rated 50 percent or more) to pay the United States $2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the initial amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

"(b) Amounts collected under this section shall be credited to the Department of Veterans Affairs Medical-Care Cost Recovery Fund.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 622 the following new item:

"622A. Copayment for medication.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to medications furnished to a veteran after October 31, 1990.

SEC. 11013. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) INPATIENT CARE.—Section 610 of title 38, United States Code, is amended—

(1) in subsection (a)(1)(I), by striking out "622(a)(1)" and inserting in lieu thereof "622(a)";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a non-service-connected disability, subject to the provisions of subsection (f) of this section.";

(3) in subsection (f), by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2)(A) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

"(i) the cost of furnishing such care, as determined by the Secretary, or

"(ii) the amount equal to the sum of the amount determined under paragraph (3) of this subsection plus an amount equal to $10 for every day the veteran receives hospital care, and $5 for every day the veteran receives nursing home care.

"(B) Effective on January 1 of each year, the amounts in effect under clause of subparagraph (A) shall be increased by the percentage increase (if any) in the Consumer Price Index of all Urban Consumers (as published by the Bureau of Labor Statistics of the Department of Labor) for the 12-month period ending on the previous November 30."; and

(4) in subparagraphs (A) and (B) of subsection (f)(3), by striking out "(2)(B)" each place it appears and inserting in lieu thereof "(2)(A)(ii)".

(b) OUTPATIENT CARE.—Subsection (f) of section 612 of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "610(a)(2)(B)" and inserting in lieu thereof "610(a)(2)";

(2) by striking out paragraphs (3), (4), and (6); and

(3) by redesignating paragraphs (5) and (7) as (3) and (4), respectively.

(c) INCOME THRESHOLDS.—

(1) IN GENERAL.—Subsection (a) of section 622 of title 38, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" at the beginning of the subsection;

(ii) by redesignating clauses (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) by striking out "Category A threshold" in paragraph (3), as so redesignated, and inserting in lieu thereof "applicable income threshold amount under subsection (b)"; and

(B) by striking out paragraph (2).

(2) CALENDAR YEAR 1990.—Subsection (b) of such section is amended to read as follows:

"(b)(1) For purposes of subsection (a)(3), the income threshold amount for the calendar year beginning on January 1, 1990, is—

"(A) $17,240 in the case of a veteran with no dependents; and

"(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

"(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.".

(3) TECHNICAL AMENDMENT.—Subsection (c) of such section is amended by striking out "paragraphs (1) and (2) of".

(4) ABILITY DETERMINATION.—Paragraph (2) of subsection (d) of such section is amended to read as follows:

"(2) A determination described in this paragraph is a determination that, for purposes of subsection (a)(3) of this section, a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.".

(5) HARDSHIP.—Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out "the Category A threshold or the Category B threshold, as appropriate" and inserting in lieu thereof "the applicable income threshold amount under subsection (b) of this section"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

"(A) the veteran has an attributable income greater than the applicable income threshold amount under subsection (b) of this section; and

"(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the applicable income threshold amount under subsection (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to hospital care and medical services received after October 31, 1990.

Subtitle C—Educational and Vocational Assistance

SEC. 11021. INTERTERM REDUCTION OF EDUCATIONAL ASSISTANCE.

(a) ALL VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—

(1) BASIC EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Section 1415 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly basic educational assistance payable under this subchapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ½ of the last rate of such monthly assistance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid educational assistance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the basic educational assistance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(B) TECHNICAL AMENDMENT.—Subsection (a) of such section is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), (d), and (e)".

(2) SUPPLEMENTAL EDUCATIONAL ASSISTANCE.—Section 1422 of such title is amended by adding at the end the following new subsection:

"(c)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly supplemental educational assistance payable under this subchapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ½ of the last rate of such monthly assistance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid supplemental educational assistance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the supplemental educational assistance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—Section 1631 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly benefit payable under this chapter to an

individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ½ of the last rate of such monthly benefit paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid such benefit for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the monthly benefit payment under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 1732 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ½ of the last rate of such monthly assistance allowance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the educational assistance allowance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(d) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.—Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of title 38 shall be reduced to ½ of the last rate of such monthly assistance allowance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the educational assistance allowance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(e) ADMINISTRATIVE COSTS.—The costs of administering sections 1415(e), 1422(c), 1631(f), and 1732(f) of title 38, United States Code (as added by this section), and section 2131(h) of title 10, United States Code (as added by this section), shall be paid for from amounts available to the Department of Veterans Affairs for the payment of readjustment benefits.

SEC. 11022. ELIMINATION OF VOCATIONAL REHABILITATION BENEFITS FOR CERTAIN DISABLED VETERANS.

(a) IN GENERAL.—Section 1502(1)(A) of title 38, United States Code, is amended by inserting "at a rate of 30 percent or more" after "compensable" both places it appears.

(b) SAVINGS PROVISION.—In the case of any person who is participating in a rehabilitation program under chapter 31 of title 38, United States Code, on the date of the enactment of this Act, the amendment made by subsection (a) shall not affect the eligibility of such person to continue to participate in such program for so long as there is no break in such person's participation in such program after such date.

Subtitle D—Home Loan Guaranties

SEC. 11031. ELECTION OF CLAIM UNDER GUARANTY OF MANUFACTURED HOME LOANS.

(a) IN GENERAL.—Paragraph (3) of section 1812(c) of title 38, United States Code, is amended to read as follows:

"(3)(A) The Secretary's guaranty may not exceed the lesser of (i) the lesser of $20,000 or 40 percent of the loan, or (ii) the maximum amount of the guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection.

"(B) A claim under the Secretary's guaranty shall, at the election of the holder of a loan, be made—

"(i) by application to the Secretary within a reasonable time after the receipt by such holder of an appraisal by the Secretary of the value of the security for the loan; or

"(ii) after liquidation of the security for the loan, by the filing of an accounting with the Secretary.

"(C) If the holder of a loan applies for payment of a claim under clause (i) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

"(i) the amount equal to the excess, if any, of the loan balance over the value of the appraisal referred to in such subclause; or

"(ii) the amount equal to the excess, if any, of the amount of the guaranty over the value of such appraisal.

"(D) If the holder of a loan files for payment of a claim under clause (ii) of subparagraph (B) this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

"(i) the amount equal to the excess, if any, of the loan balance over the amount of the liquidation or loan proceeds; or

"(ii) the amount equal to the excess, if any, of the amount of the guaranty over the amount of the liquidation or resale proceeds.

"(E) In any accounting filed pursuant to subparagraph (B)(ii) of this subsection, the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.

"(F) The liability of the United States under the guaranty provided for by this paragraph shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims filed with the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

SEC. 11032. INCREASE IN CERTAIN LOAN FEES.

(a) INCREASED FEE PERCENTAGES.—Section 1829(b)(1) of title 38, United States Code, is amended—

(1) in the matter above clause (A), by striking out "1.25 percent" and inserting in lieu thereof "2 percent";

(2) in clause (B), by striking out "0.75 percent" and inserting in lieu thereof "1.5 percent"; and

(3) in clause (C), by striking out "0.50 percent" and inserting in lieu thereof "1.25 percent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to housing loans guaranteed, insured, or made under chapter 37 of title 38, United States Code, on or after the date of the enactment of this Act.

Subtitle E—Burial Benefits and Grave Markers

SEC. 11041. ELIGIBILITY FOR BURIAL PLOT ALLOWANCE.

(a) IN GENERAL.—Section 903 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary may not pay a plot or interment allowance under clause (2) of subsection (b) for any veteran whose eligibility for such allowance is based on such veteran's status as a veteran of any war.".

(b) EFFECTIVE DATE.—Subsection (c) of section 903 of title 38, United States Code (as added by subsection (a)), shall take effect with respect to deaths occurring after October 30, 1990.

SEC. 11042. ELIMINATION OF HEADSTONE ALLOWANCE.

(a) IN GENERAL.—Section 906 of title 38, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to deaths occurring after October 30, 1990.

Subtitle F—Miscellaneous

SEC. 11051. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF TAX INFORMATION.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) CLERICAL AMENDMENT.—The heading of paragraph (7) of section 6103(l) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—

(1) USE FOR NEEDS-BASED PROGRAMS.—Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall notify individuals who (as of the date of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (c) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) DEADLINE FOR NOTICE.—Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) LIMITATION UNTIL NOTICE MADE.—The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.

SEC. 11052. LINE OF DUTY.

(a) ELIMINATION OF COMPENSATION FOR SECONDARY EFFECTS OF MISCONDUCT.—Title 38, United States Code, is amended—

(1) in section 105(a), by striking out "the result of the person's own willful misconduct" in the first sentence and inserting in lieu thereof "a result of the person's own willful misconduct or abuse of alcohol or drugs";

(2) in section 310, by striking out "the result of the veteran's own willful misconduct" and inserting in lieu thereof "a result of the veteran's own willful misconduct or abuse of alcohol or drugs"; and

(3) in section 331, by striking out "the result of the veteran's own willful misconduct" and inserting in lieu thereof "a result of the veteran's own willful misconduct or abuse of alcohol or drugs".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to line of duty determinations made on or after November 1, 1990.

SEC. 11053. REPORTING OF SOCIAL SECURITY NUMBERS BY CLAIMANTS AND USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.

"(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, as amended by section 11051(b), is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with Department of Health and Human Services death information for the purposes of—

"(1) determining whether any such persons are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 11051(b), is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

SEC. 12001. SHORT TITLE.

This title may be cited as the "Budget Process Reform Act of 1990".

SEC. 12002. TABLE OF CONTENTS.

Subtitle A—Deficit Reduction

SEC. 12051. DEFICIT TARGETS.

(a) DEFINITION OF MAXIMUM DEFICIT.—Section 3(7) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (F), (G), and (H), and inserting the following:

"(F) with respect to the fiscal year beginning October 1, 1990, $242,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $219,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $165,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $86,000,000,000; and

"(J) with respect to the fiscal year beginning October 1, 1994, $62,000,000,000; or

with respect to each such fiscal year, such revised amounts as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(E) of that Act.".

(b) BUDGET ESTIMATES AND DETERMINATIONS.—Section 251(a)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in subparagraph (A), by inserting after "such fiscal year" the following: "(and each other fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts)";

(2) in subparagraph (C), by striking "and" at the end thereof; and

(3) by inserting at the end thereof the following new subparagraphs:

"(E)(i) in calendar years 1991 and 1992, estimate the necessary revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused solely by—

"(I) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(II) economic and technical changes, which shall equal—

"(aa) the deficit in the budget baseline set forth pursuant to paragraph (6) of this subsection, minus

"(bb)(aaa) the net deficit increase (if any) caused by laws (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)) enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (adjusting for any sequestration), and

"(bbb) the maximum deficit amount as it existed immediately before the issuance of the report, and

"(ii) in calendar year 1993, estimate the revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused by only changes in the budgetary accounting for credit; and

"(F) estimate the necessary revisions to the defense, international, and domestic discretionary spending allocations set forth in section 12052 of the Omnibus Budget Reconciliation Act of 1990 for each appropriate fiscal year caused solely by—

"(i) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(ii) changes in forecasted inflation using only changes in the forecast of the fiscal year average of the estimated gross national product fixed-weight price deflator.".

SEC. 12052. DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 050 (National Defense) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $288,918,000,000,

(ii) outlays, $297,660,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $291,643,000,000,

(ii) outlays, $295,744,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $291,785,000,000,

(ii) outlays, $292,686,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(b) AGGREGATE ALLOCATIONS FOR INTERNATIONAL AFFAIRS.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $20,100,000,000,

(ii) outlays, $18,600,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $20,500,000,000,

(ii) outlays, $19,100,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $21,400,000,000,

(ii) outlays, $19,600,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(c) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and outlays for fiscal years 1991, 1992, and 1993 for all discretionary spending in categories other than major functional categories 050 (National Defense) and 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $182,700,000,000,

(ii) outlays, $198,100,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $191,300,000,000,

(ii) outlays, $210,100,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $198,300,000,000,

(ii) outlays, $221,700,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(d) AGGREGATE ALLOCATIONS FOR DISCRETIONARY SPENDING.—The levels of budget authority and outlays for fiscal years 1994 and 1995 for discretionary spending shall be—

(1)(A) for fiscal year 1994:

(i) new budget authority, $510,800,000,000,

(ii) outlays, $534,800,000,000, and

(B) for fiscal year 1995:

(i) new budget authority, $517,700,000,000,

(ii) outlays, $540,800,000,000, or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(e) BUDGET RESOLUTIONS.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives shall report a concurrent resolution on the budget for fiscal years 1992, 1993, 1994, and 1995 pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a), (b), and (c).

(g)(1) ADDITIONAL TECHNICAL REVISIONS.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall make technical reestimates (in addition to those that the Direc-

tor may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985) to allow increased funding in the following amounts, and such amounts shall be added to the allocations under section 12052 and shall not be counted as increasing the deficit for purposes of sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) in addition to any other amounts under this paragraph, for each of fiscal years 1992 and 1993, in the amounts of—

(i) up to 0.021 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for defense discretionary spending budget authority under subsection (a); and

(ii) up to 0.079 percent of the total of budget authority in the allocations made in subsections (a), (b), and (c) (together) for fiscal years 1991, 1992, and 1993 (together), for international affairs discretionary spending budget authority under subsection (b);

(iii) 0.1 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for domestic discretionary spending budget authority under subsection (c);

(B) in addition to any other amounts under this paragraph, the estimated costs of an appropriation enacted in calendar year 1990 or 1991 that forgives the Arab Republic of Egypt's Foreign Military Sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States;

(C) in the addition to any other amounts under this paragraph, the amount provided by an appropriation enacted in fiscal year 1992 to purchase Special Drawing Rights from the International Monetary Fund as part of its Ninth General Review of Quotas;

(D) in addition to any other amounts under this paragraph, amounts not to exceed the following for the Internal Revenue Service compliance initiative to be provided to raise additional revenues from increased Internal Revenue Service compliance—

(i) for fiscal year 1991:
(I) new budget authority, $191,000,000,
(II) outlays, $183,000,000,
(ii) for fiscal year 1992:
(I) new budget authority, $172,000,000,
(II) outlays, $169,000,000,
(iii) for fiscal year 1993:
(I) new budget authority, $183,000,000,
(II) outlays, $179,000,000,
(iv) for fiscal year 1994:
(I) new budget authority, $187,000,000,
(II) outlays, $183,000,000, and
(v) for fiscal year 1995:
(I) new budget authority, $188,000,000,
(II) outlays, $184,000,000; and

the prior-year outlays resulting from these appropriations of budget authority; and

(E) in addition to any other amounts under this paragraph, such amounts as the President designates as emergency requirements in a request for appropriations and that the Congress so designates in statute. Emergency Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

(2) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 of the Congressional Budget Act of 1974 may set forth levels consistent with allocations increased by—

(A) the budget authority amounts in subparagraph (A) and by the composite outlays per category consistent with them; and

(B) the budget authority and outlay amounts in subparagraph (B), (C), (D), (E), and (F).

(h)(1) FURTHER ADDITIONAL TECHNICAL REVISIONS.—(1) Notwithstanding any other provision of law, the Director of the Office of Management and Budget may make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985, but solely due to outlays exceeding the amount of outlays set forth in subsections (a), (b), and (c), resulting from changes between outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in subsections (a), (b), and (c), less any outlays used pursuant to subsections (g)(1)(A) to allow increased funding in the following amounts and such amounts shall not be counted as increasing the deficit under sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) for each of fiscal years 1991, 1992, and 1993, in the amounts of—

(i) $2,500,000,000 for defense discretionary spending outlays under subsection (a);

(ii) $1,500,000,000 for international affairs discretionary spending outlays under subsection (b); and

(iii) $2,500,000,000 for domestic discretionary spending outlays under subsection (c); and

(B) for each of fiscal years 1994 and 1995, in the amount of $6,500,000,000 for discretionary spending outlays under subsection (d).

SEC. 12053. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

(a) DATE OF FINAL ORDER.—

(1)(A) The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(i) in section 251(c)(1), by striking "October 10" and inserting "November 10";

(ii) in section 253, by striking "November 15" and inserting "December 15";

(iii) in section 252(b)(1), by striking "October 15" and inserting "November 15";

(iv) in section 252(c)(2)(D), by striking "October 20" and inserting "November 20"; and

(v) in section 257(c)(2), by striking "October 15" and inserting "November 15".

(B) The amendments made by this paragraph shall take effect beginning in calendar year 1991.

(b) SPENDING CATEGORY SEQUESTER.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 252 the following:

"SEC. 252A. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

"(a) REPORTING OF EXCESS.—

"(1) ESTIMATES AND DETERMINATIONS.—The Directors shall, with respect to each appropriations Act—

"(A) determine the aggregate budget levels of outlays that may be anticipated as a result of the enactment of such appropriations Act—

"(i) for the defense, international affairs, and domestic discretionary categories as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1991, 1992, and 1993; and

"(ii) for discretionary spending as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1994 and 1995; and

"(B) determine whether such Appropriations Act causes the aggregate allocation for budget authority or outlays in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as revised under that section and section 251(a)(1)(F) of this Act) to be exceeded.

"(2) REPORT.—Based on the determinations required in paragraph (1), the Directors of the Congressional Budget Office and the Office of Management and Budget shall each report to the President not later than 5 days after the enactment of an appropriations Act identifying the amount of any budget authority or outlay excess in any spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 resulting from the enactment of the appropriations Act, estimating the aggregate amount of budget authority or outlay reductions in the spending category necessary to eliminate the excess, and specifying by account within the spending category the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this section.

"(b) SEQUESTER ORDER.—Based on the report the Director of the Office of Management and Budget issued pursuant to subsection (a), the President shall issue a sequester order (making reductions uniformly across each nonexempt account, and within each account, uniformly across each program, project, and activity) applicable to any spending category in excess of the allocation limit for such category 15 days after the enactment of the appropriation Act appropriating amounts in excess of allocation limits (or on November 15, if the date of enactment is after June 30 or before November 1 of the fiscal year for which such Act makes appropriations).

"(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Under this section, the Director of the Office of Management and Budget shall use the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any appropriations Act, the Director of the Office of Management and Budget shall submit to the Senate and the House of Representatives an estimate of the amount of change in budget authority, outlays, or receipts (if any) in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

(c) CONFORMING CHANGES.—The Balanced Budget and Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(3)(B), by inserting after "and 257," the following: "and after having made such reductions, if any, as may be required by sections 252A and 252B,";

(2) in section 251(a)(6)—

(A) by amending subparagraphs (C) and (D) to read as follows:

"(C) in the case of all accounts to which subparagraph (A) does not apply, assuming appropriations at the levels set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as adjusted under that section and section 251(a)(1)(F) of this Act), except assuming such lower levels in annual appropriations or continuing appropriations that have been enacted before the date of the report for the entire fiscal year that are enacted at a lower level, when appropriations have been enacted covering all

subcommittees covered by the relevant category;

"(D) assuming that any sequester under section 252B that will be ordered on November 15 has been put into effect before the snapshot date;";

(3) in section 252(a)(1), by inserting after "251(a)(2)(B)," the following: "and after having ordered such reductions, if any, as may be required by sections 252A and 252B,";

(4) in section 252(a)(4), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Notwithstanding section 257(7), the net amount of deficit increase caused by laws enacted after November 15 of the previous calendar year and before October 1 (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)), after taking effect any sequestration during that period, shall be withheld in amounts equal to those that would be sequestered if the appropriate sequester orders under this section, section 252A, and section 252B were issued on October 1, pending the issuance of final order under those sections, and shall be permanently sequestered or reduced in accordance with those final orders upon the issuance of those final orders.";

(5) in section 252(a)(4)(B)(ii)—

(A) by striking "order under subsection (b)" and inserting "orders under subsection (b) and section 252B"; and

(B) by striking "2 percent" and inserting "4 percent"; and

(6) in section 256(d)(1)(B), by striking "2 percent" and inserting "4 percent".

SEC. 12054. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 12055. CONFORMING CHANGES.

(a) EXPIRATION.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by striking "1993" and inserting "1995".

(b) MARGIN.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended

(1) in section 251(a)(1)(B), by striking "$10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin";

(2) in section 251(a)(2), by striking $10,000.000,000 (zero in the case of fiscal year 1993)" and inserting "the margin"; and

(3) in section 257, by amending paragraph (10) to read as follows:

"(10) The term 'margin' means zero with respect to each of fiscal years 1991, 1992, and 1993, and $15,000,000,000 with respect to each of fiscal years 1994 and 1995.".

Subtitle B—Pay-As-You-Go

SEC. 12101. PAY-AS-YOU-GO PROVISIONS IN BUDGET RESOLUTIONS.

Section 301(b) of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (3), by striking "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) set forth pay-as-you-go procedures whereby—

"(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

"(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) may file with the Senate or the House of Representatives (as the case may be) appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

"(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

"(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) of this Act to carry out this paragraph; and".

SEC. 12102. PAY-AS-YOU-GO SEQUESTRATION.

(a) REPORTS.—Section 251(a)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "estimating the aggregate amount of required outlay reductions" and inserting "estimating the amount of required mandatory outlay reductions under section 252B and the aggregate amount of required outlay reductions".

(b) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by adding after section 252 the following new section:

"SEC. 252B. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation enacted after the date of enactment of this section that affects direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On November 15 of each fiscal year, there shall be a sequestration pursuant to subsection (d) to offset the amount of any net deficit increase in that fiscal year or the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). The Director of OMB shall calculate the amount of net deficit increase, if any, in each such fiscal year by adding—

"(1) all estimates of the effect of direct spending and receipts legislation on the deficit published under subsection (d) applicable to each such fiscal year; and

"(2) the estimated amount of deficit reduction applicable to each such fiscal year resulting from the prior year's sequestration, if any, as published in the Director of OMB's final sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) All reductions in automatic spending increases specified in section 257(1) shall be made.

"(B) If additional reductions in direct spending accounts are required to be made, the maximum reduction permissible under sections 256(c) (guaranteed student loans) and 256(f) (foster care and adoption assistance) shall be made.

"(C) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt mandatory account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required except that—

"(i) the medicare program specified in section 256(d) shall not be reduced by more than 4 percent; and

"(ii) the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(2) For purposes of this subsection, accounts shall be assumed to be at the level in the budget baseline determined under section 251(a)(6).

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any direct spending or receipts legislation, the Director of OMB shall submit to the Senate and the House of Representatives an estimate of the amount of change in the deficit in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

Subtitle C—Social Security Trust Fund

SEC. 12151. EXCLUSION OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—Section 3(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the second sentence.

(b) SOCIAL SECURITY ACT.—Section 710(a) of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning with fiscal year 1991.

SEC. 12152. SOCIAL SECURITY FIREWALL AND POINT OF ORDER.

(a) EXCLUSION FROM RECONCILIATION PROCESS.—Section 310(g) of the Congressional Budget Act of 1974 is amended by striking beginning with "that contains recommendations" and all that follows through the period and inserting: "that changes the old-age, survivors, and disability program established under title II of the Social Security Act or its financing without regard to whether such changes increase, decrease, or have no impact on the outlays of and income to such program.".

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraphs:

"(6) Social Security outlays, which for purposes of this title shall be composed of outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act; and

"(7) Social Security revenues, which for purposes of this title shall be composed of revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986.".

(d) POINT OF ORDER.—Section 301(i) is amended by adding at the end thereof the following new paragraph:

"(3) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the difference between Social Security revenues and Social Security outlays in any of fiscal years covered by the concurrent resolution.".

(e) COMMITTEE ALLOCATIONS.—

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "Social Security outlays," after "budget outlays,".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: "or provides for Social Security outlays in excess of the appropriate allocation of Social Security outlays under subsection (a)".

(3) Section 302(f)(2) of such Act is further amended by adding at the end thereof the following: "In applying this paragraph—

"(A) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(B) estimated Social Security outlays shall be deemed increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).".

(f) POINT OF ORDER UNDER SECTION 311.—Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "or Social Security outlays" after "total budget outlays";

(2) by inserting "(or Social Security revenues to be less than the appropriate level of Social Security revenues)" after "total revenues"; and

(3) by adding at the end thereof the following: "In applying this subsection—

"(A)(i) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

"(ii) estimated Social Security revenues shall be deemed to be increased to the extent that estimated Social Security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of Social Security outlays in the most recently agreed to concurrent resolution on the budget; and

"(B)(i) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(ii) estimated Social Security revenues shall be deemed to be reduced by the excess of estimated Social Security outlays (including Social Security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of Social Security outlays specified in the most recently adopted concurrent resolution on the budget.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate Committees shall report revised allocations pursuant to section 302(b)."

(g) LONG-RANGE ACTUARIAL ESTIMATES.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"ACTUARIAL EVALUATION OF LEGISLATION

"SEC. 234. (a)(1) The Secretary shall prepare and transmit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an actuarial analysis of the 75-year effect of legislation affecting the programs established by this title—

"(A) when it appears that such legislation is likely to be acted upon by the Congress, or

"(B) upon the request of a Member of the United States Senate.

"(2) The estimate required by paragraph (1) shall, at a minimum, display the change in long-range balance under each of the alternative sets of assumptions used in the most recent report of the Board of Trustees pursuant to section 201(c)(2). Each such estimate shall bear a certification by the Chief Actuary of the Social Security Administration as to whether or not the techniques and methodology used in its preparation are generally accepted within the actuarial profession and whether or not the assumptions and resulting cost estimates are reasonable. Upon receipt of an actuarial analysis described in this subsection, the chairman of the Committee on Finance shall file such analysis with the Senate.

"(b)(1) It shall not be in order in the Senate to consider any measure or amendment that would modify the program established by this title (or the revenue provisions that provide funding for such program), unless—

(A) the Committee on Finance has submitted to the Senate the actuarial analysis described in subsection (a) with respect to such bill, resolution, amendment, or conference report, or

(B) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

"(2) A motion described in paragraph (1)(B) shall not be considered to be agreed to unless it receives the affirmative vote of three fifths of the membership of the Senate duly chosen and sworn, except that such a motion shall be considered approved upon an affirmative vote of a majority of Senators present and voting if—

"(A) an actuarial analysis was requested from the Secretary more than 72 hours before the motion is voted on (or 24 hours if such motion relates to an amendment in the first degree to a bill dealing with Social Security other than a Committee amendment or 1 hour if the motion relates to an amendment in the second degree to an amendment or a bill dealing with Social Security); and

"(B) such analysis has not been provided by the Secretary.".

Subtitle D—Multiyear Budgeting to Ensure Permanent Savings

SEC. 12201. MULTIYEAR BUDGETING.

(a) APPROPRIATE LEVELS.—Section 301(a) of the Congressional Budget Act of 1974 is amended in the matter before paragraph (1) by striking "planning levels for each of the two" and inserting "for each of the 4".

(b) DECLARATION OF PURPOSE.—Section 2(2) of that Act is amended by striking "each year".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(b)(3) of that Act is amended by striking "for such fiscal year" and inserting "for any one of the fiscal years covered by the concurrent resolution".

(2) Section 301(e) of that Act is amended—

(A) in the first sentence by striking "for each fiscal year"; and

(B) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year covered by the concurrent resolution";

(3) Paragraphs (1) and (2) of section 301(f) of that Act are amended by striking "for the fiscal year beginning after the date on which such Economic Report is received by the Congress" each place it appears.

(4) Section 301(i)(1)(A) of that Act is amended—

(A) by striking "for a fiscal year"; and

(B) by striking "for such fiscal year" the first place it appears and inserting "for the first fiscal year".

(d) COMMITTEE ALLOCATIONS.—

(1) Paragraphs (1) and (2) of section 302(a) of that Act are amended by inserting "for each fiscal year in such resolution" after "estimated allocation" each place it appears.

(2) Section 302(b) of that Act is amended—

(A) in paragraph (1) by inserting after "to it" the following: "for the first fiscal year"; and

(B) in paragraph (2)—

(i) by inserting after "(2)" the following: "for"; and

(ii) by striking all after "statement" through the period and inserting the following: ", for purposes of subsections (c) and (f), the allocation made pursuant to subsection (a) shall constitute the allocation pursuant to this subsection.".

(3) Section 302(c) of that Act is amended—

(A) by inserting after "for a fiscal year" each place it appears the following: "or fiscal years"; and

(B) by inserting after "for such fiscal year" each place it appears the following: "or fiscal years".

(4) Section 302(f)(1) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting the following: "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(5) Section 302(f)(2) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such outlays or authority" inserting the following: "the appropriate outlays and authority for the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(e) SECTION 303 POINT OF ORDER.—Section 303(a) of that Act is amended in the matter following paragraph (5) by inserting after "budget for such fiscal year" the following: "(for committees covered by section 302(b)(2)) or budget for which such fiscal year is the first fiscal year covered (for committees covered by section 302(b)(1))".

(f) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Subsections (a)(3) and (b)(3) of section 305 of that Act are amended by striking "for a fiscal year".

(g) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—

(1)(A) Section 308(a)(1) of that Act is amended—

(i) in the matter preceding subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)";

(ii) in subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)"; and

(iii) in subparagraph (C) by inserting after "such fiscal year" the following: "(or fiscal years)".

(B) Section 308(a)(2) of that Act is amended by inserting after "fiscal year" the following: "(or fiscal years)".

(2) Section 308(b)(1) of that Act is amended—

(A) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a concurrent resolution on the budget"; and

(B) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate concurrent resolution".

(h) RECONCILIATION PROCESS.—Section 310(a) of that Act is amended—

(1) by inserting after "shall" in the matter preceding paragraph (1) the following: "(for at least 3 fiscal years)";

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting the following: "such fiscal years"; and

(3) by adding at the end thereof the following:

"To the extent that a concurrent resolution on the budget specifies and directs matters described in paragraphs (1), (2), or (4), the concurrent resolution shall specify and direct deficit reduction for the 5 years covered by the concurrent resolution in amounts equal to or greater than 5 times that specified and directed for the first year covered for each committee directed.".

(i) SECTION 311 POINT OF ORDER.—

(1) Section 311(a) of that Act is amended—

(A) by striking "for a fiscal year";

(B) by inserting "for the first fiscal year" after "set forth" the first place it appears;

(C) by striking "budget for such fiscal year" and inserting "budget covering such fiscal year";

(D) by inserting "for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years" after "set forth" the second place it appears; and

(E) by striking "deficit for such fiscal year" and inserting "deficit for the first fiscal year covered by the resolution".

(2) Section 311(b) of that Act is amended by inserting after "such fiscal year" each place it appears the following: "(or fiscal years)".

(j) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of that Act is amended by inserting after "for such fiscal year" the second place it appears the following: "(or fiscal years)".

SEC. 12202. PRESIDENT'S BUDGET TO ADDRESS OUT-YEARS.

(a) PRESIDENTS' BUDGET TO ADDRESS OUT-YEARS.—Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting after "such fiscal year" each time it appears "and the 4 fiscal years after that year";

(2) in paragraph (2) by inserting after "any fiscal year" the following: "(including the 4 fiscal years after the fiscal year for which the budget is submitted)"; and

(3) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) DETAIL OF PRESIDENTS' BUDGETS.—The second sentence of section 1104(b) of title 31, United States Code, is amended by striking "fiscal year 1950" and inserting "fiscal year 1990 submitted on January 9, 1989".

SEC. 12203. STRENGTHENING THE PROHIBITION OF SPENDING BEFORE BUDGETING.

Section 303(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the first sentence.

Subtitle E—Credit Reform

SEC. 12251. CREDIT REFORMS.

The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—CREDIT REFORM

"SHORT TITLE

"SEC. 1100. This title may be cited as the 'Federal Credit Reform Act of 1990'.

"PURPOSES

"SEC. 1101. The purposes of this title are to—

"(1) measure accurately the costs of Federal credit programs;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries;

"(4) improve the allocation of resources among credit programs and between credit and other spending programs;

"(5) provide for the coordinated accounting and review of Federal credit programs by the Congressional Budget Office and Office of Management and Budget;

"(6) enhance the ability of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives to analyze and review of Federal credit programs; and

"(7) modify the legislative and executive budgetary processes to carry out these purposes.

"DEFINITIONS

"SEC. 1102. For purposes of this title—

"(1) The term 'Federal agency' means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress that is owned in whole or in part by the United States. The term does not include the Board of Governors of the Federal Reserve System or the College Construction Loan Insurance Association.

"(2) The term 'direct loan' means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation. For the purpose of carrying out this title, direct loans may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(3) The term 'direct loan obligation' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to make a direct loan when specified conditions are fulfilled by the borrower.

"(4) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions. For the purposes of carrying out the provisions of this title, loan guarantees may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(5) The term 'loan guarantee commitment' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to guarantee a loan when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(6)(A) The term 'cost to the Government' means—

"(i) the estimated long-term net cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis; and

"(ii) the cost to the Government resulting from any change or modification in direct or guaranteed loan contract terms that results or will result in additional expenditures by the Government or loss of receipts to the Government.

"(B) In determining the amount of cost to the Government of a direct loan or loan guarantee, the estimator shall take into account—

"(i) any cash flows to or from the Government resulting from the terms and conditions of the direct loan obligation or guarantee commitment, including those resulting from—

"(I) direct outlays,

"(II) repayments (of principal or interest),

"(III) interest payments,

"(IV) interest receipts,

"(V) fees charged by (or on behalf of) the Government,

"(VI) the term to maturity,

"(VII) the payment schedule,

"(VIII) defaults in repayments,

"(IX) delays in repayments,

"(X) prepayments,

"(XI) forbearance and restructuring rights,

"(XII) grace periods,

"(XIII) penalties,

"(XIV) recoveries from the liquidation of collateral, and

"(XV) degree of guarantee;

"(ii) the likelihood (based on analysis of historical data) of deviations from the terms

and conditions of the direct loan or loan guarantee, including those resulting from—

"(I) changes in the payment schedule,

"(II) defaults in repayments,

"(III) delays in repayments,

"(IV) prepayments,

"(V) forbearance and restructuring rights,

"(VI) grace periods,

"(VII) penalties,

"(VIII) recoveries from the liquidation of collateral, and

"(IX) degree of guarantee; and

"(ii) where historical data is not available or adequate, private market analogues, adjusted to estimate the cost to the Government.

"(C) The cost to the Government shall not include administrative costs.

"(7) The term 'subsidy account' means the budget account or accounts into which subsidies are appropriated to cover the cost to the Government of a direct loan or loan guarantee program.

"(8) The term 'financing account' means the budget account or accounts associated with each subsidy account that—

"(A) provides the non-subsidized funding to non-Government borrowers for Government direct loans obligated on or after October 1, 1991;

"(B) provides direct loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default and serves as a reserve for agency loan guarantee commitments made on or after October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from or on behalf of borrowers and subsidy payments from subsidy accounts for direct loans obligated or loan guarantees committed on or after October 1, 1991.

If an appropriated account includes both direct loans and loan guarantees, the affected agency shall maintain separate financing accounts for each.

"(9) The term 'liquidating account' means the budget account or accounts that—

"(A) provides the funding for direct loans obligated prior to October 1, 1991;

"(B) disburses loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default for direct loans and guaranteed loans obligated prior to October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from on or on behalf of borrowers for all direct loans or loan guarantees obligated prior to October 1, 1991.

"(10) The term 'Director' means the Director of the Office of Management and Budget.

"OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW

"SEC. 1103. (a) IN GENERAL.—The Director shall be responsible for coordinating estimates by Federal agencies required by this title.

"(b) ESTIMATES OF COST TO THE GOVERNMENT BY THE DIRECTOR.—With regard to direct loans and loan guarantees, the Director shall—

"(1) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for each new direct loan and loan guarantee or for groups of similar new direct loans and loan guarantees, taking into account the factors specified in section 1102(6);

"(2) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for changes or modification in the provisions of existing direct loan and loan guarantee agreements that result in increased cost to the Government;

"(3) if estimates of the cost to the Government are made by the Director, furnish the appropriate Federal agency with the estimates in a timely fashion;

"(4) require timely uniform reporting from Federal agencies on the actual long-term cost to the Government of direct loans and loan guarantees, calculated on a basis prescribed by the Director and consistent with this title, and on loan performance and borrower characteristics;

"(5) in the case of a program for which historical data is inadequate to determine the cost to the Government, oversee the development and implementation of systems that will make the collection and maintenance of credit data adequate in the future;

"(6) monitor due diligence debt collection efforts;

"(7) assess Federal agency performance; and

"(8) otherwise study and undertake improvements in Federal agency credit management.

"(c) DEVELOPMENT OF ESTIMATES.—

"(1) IN GENERAL.—In developing estimate criteria to be used by Federal agencies, the Director shall, in cooperation with the Director of Congressional Budget Office—

"(A) coordinate the development of accurate data on historical performance of loans and guarantees; and

"(B) review historical budget data and issue guidelines for the agencies to follow to develop the best possible broad estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"(2) CONSULTATION WITH CONGRESS.—The Director shall also consult with the chairmen and ranking members of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives in developing criteria under paragraph (1).

"(d) REVISION OF CRITERIA.—Any change by the Director in the criteria for estimating developed pursuant to subsection (c) may be made only after consultation with the Director of the Congressional Budget Office, and the chairmen and ranking members of the Committees on the Budget and Appropriations of the Senate and the House of Representatives.

"(e) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall analyze differences in long-term administrative costs for credit programs versus grant programs and, 6 months after the date of enactment of this title and when appropriate thereafter, propose changes to Congress for incorporating administrative costs in the credit reform accounting process.

"DIRECT LOAN PROGRAMS

"SEC. 1104. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency shall include in its budget proposal and submission to Congress—

"(1) the planned level of new direct loan obligations; and

"(2) the estimated cost to the Government associated with the proposed direct loan obligations.

"(b) DIRECT LOAN OBLIGATIONS.—On or after October 1, 1991, a Federal agency shall not enter into a direct loan obligation unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government; or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF DIRECT LOAN OBLIGATION.—

"(1) ESTIMATE OF COST.—At the time a direct loan obligation is incurred, the Federal agency shall obtain an estimate of the cost to the Government of the loan from the Director or, at the discretion of the Director, shall make such an estimate based upon guidelines established by the Director.

"(2) BUDGET TREATMENT.—For the purposes of section 1501 of title 31, United States Code—

"(A) the amount of an estimate made under paragraph (1) shall constitute an obligation of the subsidy account to pay to the financing account; and

"(B) the face value of the direct loan shall constitute an obligation of the financing account.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a direct loan as determined in subsection (c) shall be paid from the subsidy account into the financing account as the loan is disbursed.

"(e) MODIFICATION.—No direct loan agreement may be modified in a manner that increases the cost to the Government (except modifications within the terms of the loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or, in the case of entitlement accounts, charged against the 302(a) and 302(b) allocations of the committee making the modification. In calculating the costs of altering a direct loan the calculation shall include the current estimates of the direct loan's present value.

"(f) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan.

"LOAN GUARANTEE PROGRAMS

"SEC. 1105. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency authorized to make loan guarantee commitments shall include in its budget proposal and submission to Congress—

"(1) the level of new loan guarantee commitments; and

"(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

"(b) LOAN GUARANTEE.—On or after October 1, 1991, a Federal agency shall not guarantee a loan unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government, or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF LOAN GUARANTEE.—

"(1) IN GENERAL.—At the time a loan guarantee commitment is made, the Federal agency shall obtain an estimate of the cost to the Government of the loan guarantee from the Director or, at the discretion of the Director, shall make an estimate of the cost to the Government based upon guidelines provided by the Director.

"(2) OBLIGATION.—The amount of an estimate made under paragraph (1) shall constitute an obligation of the Federal agency for the purposes of section 1501 of title 31, United States Code.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a loan guarantee determined under subsection (c) shall be paid from the subsidy account into the financing account at the time the underlying guaranteed loan is disbursed.

"(e) MODIFICATION.—No loan guarantee agreement may be modified in a manner that would increase the cost to the Government (except modifications within the terms of a loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or is charged against the 302(a) and 302(b) allocations of the committee making the modifications. In calculating the costs of modifying loan guarantee agreements, the calculation shall include the current estimates of the loan guarantee's present value.

"(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of reinsurance for a Federal guarantee from private insurers.

"(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, a loan guarantee.

"AGENCY RESPONSIBILITIES

"SEC. 1106. The head of each Federal agency authorized to make or guarantee loans covered by this title shall—

"(1) provide the Director in a timely fashion with information about the Federal agency's direct loan or loan guarantee programs sufficient to enable the Director to calculate the estimated cost to the Government, or shall, as required by the Director, estimate the cost to the Government in accordance with the Director's guidance;

"(2) request annual appropriations, or limitations on funds otherwise available, for the subsidies attributable to that Federal agency's direct loan or loan guarantee programs in each fiscal year;

"(3) carry out the Federal agency's direct loan or loan guarantee programs within the lesser of—

"(A) applicable appropriations Act limitations on direct loan obligations or loan guarantee commitments; or

"(B) annual appropriations or funds otherwise available to cover cost to the Government for the program; and

"(4) maintain reserves in a financing account to cover loan guarantee defaults, which reserves in the financing account shall be treated as uninvested funds.

"BUDGETARY TREATMENT

"SEC. 1107. (a) DIRECT LOAN COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any direct loan made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the subsidy account. The cost to the Government shall be included in the budget function of the direct loan program.

"(b) LOAN GUARANTEE COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any loan guarantee commitment made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the account charged with the subsidy payment. The cost to the Government shall be included in the budget function of the guaranteed loan program.

"(c) CREDIT FINANCING ACTIVITIES.—

"(1) For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, financing requirements of Federal credit programs in excess of costs to the Government paid by a Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantees made or obligated on or after October 1, 1991, shall also be treated as obligations of the financing accounts. Such financing transactions shall be recorded in a budget function entitled 'credit financing activities'. The Antideficiency Act shall apply to the financing accounts.

"(2) Amounts recorded in the budget function entitled 'credit financing activities' pursuant to this subsection shall not be included—

"(A) for purposes of determining, in accordance with sections 301(i) and 311(a) of this Act, whether the maximum deficit amount for a fiscal year has been exceeded;

"(B) for purposes of other points of order under section 311 of this Act;

"(C) for purposes of reconciliation under section 310 of this Act; or

"(D) for purposes of allocations and points of order under section 302 of this Act.

"(3) Transactions in the financing account shall be treated as a means of financing of the Government.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1108. (a) DIRECT LOAN OBLIGATIONS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make obligations for direct loans, such sums as may be necessary to pay the cost to the Government associated with proposed direct loan obligations and the costs of administering direct loans.

"(b) LOAN GUARANTEE COMMITMENTS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost to the Government associated with proposed loan guarantee commitments and the costs of administering loan guarantees.

"(c) TREASURY NOTES FINANCING.—If at any time the monies available in its financing account are insufficient to enable the head of the Federal agency to discharge its responsibilities under this title, the head of a Federal agency shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and containing such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the head of such agency from monies otherwise available to its financing account or from appropriations made pursuant to subsection (d). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date of issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations.

"(d) LIQUIDATING OBLIGATIONS.—

"(1) If funds are insufficient to liquidate obligations of the financing account incurred under subsection (c), for the purposes of titles III and IV of this Act, the Director or the Federal agency as designated by the Director shall estimate the level of funds needed to meet those obligations. If at any time it is determined that funds are insufficient to repay those obligations, under subsection (c), there are authorized to be appropriated such sums as are necessary to repay those obligations.

"(2) To the extent that the resources of the financing account exceed those needed to liquidate obligations of the account or to maintain actuarially determined reserve requirements, the excess funds shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time, but at least once a year.

"(3) The Director shall include detailed descriptions of the financial condition of the financing accounts in the President's annual budget submission under section 1105 of title 31 of the United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR SALARIES AND EXPENSES.—There are authorized to be appropriated to the Director such sums as may be necessary for the salaries and expenses incurred to carry out the responsibilities of the Director under this title.

"TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS

"SEC. 1109. (a) IN GENERAL.—

"(1) The provisions of this title shall not apply to the credit and insurance activities of the credit activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, Insurance Development Fund, Crop Insurance, or to the credit or other activities of the Tennessee Valley Authority.

"(2) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

"(3) For the purposes of paragraph (2) the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

"(b) ELIGIBILITY AND ASSISTANCE.—Nothing in this section shall be construed to change the responsibility of the entities that administer the programs described in subsection (a) to determine the terms and conditions of eligibility for, or the amount of assistance provided by those entities.

"EFFECT ON OTHER LAWS

"SEC. 1110. (a) FEDERAL AGENCY AUTHORITY.—Nothing in this title shall be construed as limiting the authority of any Federal agency to enter into agreements to make or to guarantee loans under statutes that were in effect prior to the date of enactment of this title or that may be enacted subsequently. All such agreements shall be contingent upon meeting the requirements of this title.

"(b) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(c) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs

shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

"IMPLEMENTATION FOR FISCAL YEAR 1992

"SEC. 1111. (a) IN GENERAL.—Beginning with the President's budget submission to Congress for fiscal year 1992, the President shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(6), of all Federal direct loan and loan guarantee authority by program and by account.

"(b) BUDGET COMMITTEES.—At the time of the President's budget submission to Congress, the Director shall provide the Committees on the Budget of both the Senate and the House of Representatives and the Congressional Budget Office with a document explaining the methodology used in development of the Director's cost to the Government estimates for direct loan and loan guarantee programs. Upon request by the Committees on the Budget of both the Senate or the House of Representatives or the Congressional Budget Office, the Director shall provide additional documentation, as required, regarding the cost to the Government estimates included in the Budget Appendix.

"(c) CONGRESSIONAL BUDGET OFFICE.—

"(1) IN GENERAL.—Beginning on January 1, 1991, the Congressional Budget Office shall include a cost to the Government estimate of direct loan or loan guarantee authority provided for in all reported bills.

"(2) EXISTING RESPONSIBILITY.—Paragraph (1) does not eliminate or modify any responsibility of the Congressional Budget Office to make cost estimates under the law in effect prior to the effective date of this title.".

SEC. 12252. EFFECT ON CONGRESSIONAL BUDGET ACT AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—(1) Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The term includes the cost to the Government for direct loan and loan guarantee programs, as those terms are defined by title XI".

(2) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"(11) GOVERNMENT-SPONSORED ENTERPRISE.—The term 'government-sponsored enterprise' means a corporate entity created by a law of the United States that—

"(A)(i) is a Federally chartered organization as provided in statute;

"(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

"(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

"(iv) is a financial institution with power to—

"(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

"(II) raise funds by borrowing or to guarantee the debt of others in unlimited amounts; and

"(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax, to levy compulsory fees, regardless of whether such fees are to finance goods or services, or to regulate interstate commerce);

"(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

"(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.".

(b) POINT OF ORDER.—Section 402 of the Congressional Budget Act of 1974 is amended—

(1) by redesignating subsection (b) as (c);

(2) in subsection (a), by striking "(b)(1)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) POINT OF ORDER.—It shall not be in order in either the Senate or the House of Representatives to consider any appropriation bill or joint resolution providing continuing appropriations, or authorizing legislation creating or modifying credit programs that are not subject to appropriation of credit authority, or any amendment thereto, or any conference report thereon, or any motion in relation thereto, that provides new credit authority that does not also provide an appropriation for the cost to the Government of such new credit authority as required by title XI.".

(c) POINT OF ORDER FOR FISCAL YEAR 1991.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after "new budget authority" the following: "or new credit authority". The amendment made by this subsection shall take effect on January 1, 1991.

(d) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992.—(1) Section 302 of the Congressional Budget Act is amended—

(A) in subsection (a)(1)—

(i) by striking "total entitlement authority, and total credit authority" and inserting "and total entitlement authority";

(ii) by striking "such entitlement authority, or such credit authority" and inserting "or such entitlement authority"; and

(iii) by striking "entitlement authority, and credit authority" and inserting "and entitlement authority";

(B) in subsection (a)(2), by striking "total budget outlays, total new budget authority and new credit authority" and inserting "total budget outlays and total new budget authority";

(C) in subsection (b)(1)(A), by striking "budget outlays, new budget authority, and new credit authority" and inserting "budget outlays and new budget authority";

(D) in subsection (c)—

(i) in paragraph (1), by inserting "or" at the end thereof; and

(ii) by striking "or (3) new credit authority for a fiscal year,"; and

(E) in subsection (f)(1)—

(i) by striking "year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year," and inserting "year or new entitlement authority effective during such fiscal year,"; and

(ii) by striking "authority, new entitlement authority, or new credit authority" and inserting "authority or new entitlement authority".

(2) The amendments made by this subsection shall take effect for fiscal years beginning after September 30, 1991.

(e) BALANCED BUDGET ACT.—Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph:

"(3) The financing account or accounts (as defined by section 1102(8)) and the activities of those accounts shall be exempt from reduction under any order issued pursuant to this part, except to the extent that a reduction in subsidies or loan limitations would result in a reduction in the financing amount or amounts.".

SEC. 12253. TABLE OF CONTENTS.

The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following:

"TITLE XI—CREDIT REFORM

"Sec. 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. 1107. Budgetary treatment.
"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. 12254. GOVERNMENT-SPONSORED ENTERPRISES.

(a) TREASURY REPORT.—

(1) On or before April 30, 1991, the Secretary of the Treasury shall submit to the Senate and the House of Representatives a report—

(A) making an objective assessment of the financial safety and soundness of the Government-sponsored enterprises;

(B) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

(C) assessing the risk of financial exposure to the Federal Government posed by Government sponsored enterprises.

(2)(A) Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(B) In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(C)(i) The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(ii) The Department of Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency.

(iii) Any officer of employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(I) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under clause (i); and

(II) he discloses the material in any manner other than—

(aa) to an officer or employee of the Department of Treasury; or

(bb) pursuant to the exception set forth in such section 1906.

(b) CONGRESSIONAL BUDGET OFFICE REPORT.—

(1) On or before April 30, 1991, the Director of the Congressional Budget Office shall submit to the Senate and the House of Representatives a report—

(A) giving that Office's perspective on—

(i) the types of risk that each Government-sponsored enterprise assumes;

(ii) ways in which the Congress can improve its understanding of these risks; and

(iii) the risks to the budget posed by Government-sponsored enterprises;

(B) evaluating the adequacy of current Government-sponsored enterprise supervision and regulation with respect to risk management; and

(C) presenting alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to Government-sponsored-enterprise-supported beneficiaries.

(2)(A) The Director of Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) The Congressional Budget Office shall be exempt from section 603 of title 2, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under subparagraph (A).

(c) STUDY AND LEGISLATION.—It is the sense of Congress that the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives shall—

(1) study the administration's Government sponsored enterprise proposals, which include—

(A) requiring triple-A ratings for Government-sponsored enterprises;

(B) establishing the Department of the Treasury as a separate regulator of Government-sponsored enterprises for safety and soundness; and

(C) imposing regulatory sanctions on Government-sponsored enterprises that fail to achieve a triple-A rating within 5 years;

(2) consult with the administration, the Government-sponsored enterprises, and the Congressional Budget Office regarding the administration's proposals; and

(3) report by September 15, 1991, to the Senate or the House of Representatives, as the case may be, as appropriate, legislation to—

(A) ensure the financial soundness of Government-sponsored enterprises; and

(B) minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

(d) LEGISLATIVE CONSIDERATION.—It is the sense of Congress that if the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives fail to report the legislation required by subsection (c) by September 15, 1991, then the Leadership of the Senate and the House of Representatives shall provide for consideration of and a vote on or in relation to legislation improving the financial safety and soundness of Government-sponsored enterprises before the end of the First Session of the 102nd Congress.

Subtitle F—Budget Timetable

SEC. 12301. BUDGET TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

"On or before:	*Action to be completed:*
January 27	*Congressional Budget Office submits its baseline report to Budget Committees and issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.*
February 1	*President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.*
March 1	*Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.*
April 1	*Senate Budget Committee reports concurrent resolution on the budget.*
April 15	*Congress completes action on concurrent resolution on the budget.*
May 15	*Annual Appropriations bills may be considered in the House.*
September 30	*Congress completes action on appropriations legislation and completes action on reconciliation legislation in odd-numbered years.*
October 1	*Fiscal year begins and any initial order becomes effective.*
November 10	*Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.*
November 15	*Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).*
November 30	*President transmits to the Congress a detailed message regarding the final order.*
December 15	*Comptroller General issues compliance report.*

"(b) IN YEARS A NEW PRESIDENT TAKES OFFICE.—In years in which a new President (who had not been President on January 19) takes office on January 20, the timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
January 27	Congressional Budget Office submits its baseline report to Budget Committees.
March 10	Congressional Budget Office issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.
March 15	President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.
April 15	Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.
May 1	Senate Budget Committee reports concurrent resolution on the budget.
May 15	Congress completes action on concurrent resolution on the budget.
June 1	Annual Appropriations bills may be considered in the House.
September 30	Congress completes action on appropriations legislation and completes action on reconciliation legislation.
October 1	Fiscal year begins and any initial order becomes effective.
November 10	Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.
November 15	Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).
November 30	President transmits to Congress a detailed message regarding the final order.
December 15	Comptroller General issues compliance report.".

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports

SEC. 12351. EARLY INITIAL GRAMM-RUDMAN-HOLLINGS REPORTS.

(a) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "as of August 15 of the calendar year in which such fiscal year begins";

(2) in section 251(a)(2)(A), by striking "August 20" and inserting "January 27";

(3) in section 251(a)(2)(B), by striking "August 25" and inserting "February 1";

(4) in section 251(a)(2)(C), by striking clauses (iii) and (iv);

(5) in section 251(a)(3)(A)(ii), by striking "paragraph" and inserting "part";

(6) in section 251(a)(3)(A)(ii)(II), by striking "in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c),";

(7) in section 251(c)(1)(A), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to subsection (a) for";

(8) in section 252(a)(1), by striking "August 25" and inserting "February 1";

(9) in section 252(a)(5), by striking "Not later than the 15th day beginning after the President issues an" and inserting "Along with any"; and

(10) in section 252(b)(2), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to section 251(a) for".

(b) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 202(f)(1), by striking "February 15" and inserting "January 27";

(2) in section 202(f)(1), by striking "and any changes in such levels based on proposals in the budget request submitted by the President for such fiscal year";

(3) in section 202(f), by adding at the end thereof the following new paragraph:

"(4) On or before March 1 of each year (or April 15 of a year to which section 300(b) applies), the Director shall submit to the Committees on the Budget of the Senate and the House of Representatives a report setting forth the Director's analysis of the proposals in the budget request submitted by the President for the fiscal year beginning October 1 of that year."; and

(4) in section 301(d), by striking "February 25" and inserting "March 1".

(c) TITLE 31 OF THE UNITED STATES CODE.—Section 1105(a) of title 31, United States Code, is amended by striking "the first Monday after January 3" and inserting "February 1".

SEC. 12352. PRESIDENTS' BUDGET REQUEST TO USE GRAMM-RUDMAN-HOLLINGS RULES.

Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting before the period "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act";

(2) in paragraph (2) by inserting before the comma "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act"; and

(3) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

Subtitle H—Strengthening the Byrd Rule on Extraneous Matter in Reconciliation

SEC. 12401. STRENGTHENING THE BYRD RULE.

(a) STRENGTHENING THE BYRD RULE.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)—

(A) by inserting after "(a)" the following: "IN GENERAL.—";

(B) by inserting after "1974" the following: "(whether that bill or resolution originated in the Senate or the House) or section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in subsection (d) by inserting after "(d)" the following: "EXTRANEOUS PROVISIONS.—";

(3) in subsection (d)(1)(A) by inserting before the semicolon "(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)";

(4) in subsection (d)(1)(D) by striking "and" after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end thereof and inserting "; and";

(6) in subsection (d)(1) by adding at the end thereof the following new subparagraph:

"(F) a provision shall be considered extraneous if it violates section 310(f).";

(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated"; and

(8) by adding at the end thereof the following new subsections:

"(e) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(f) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(g) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) TRANSFER OF BYRD RULE.—(1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974, and designated as section 313 of that Act.

(2) Section 313 of the Congressional Budget Control Act of 1974 is amended by—

(A) adding at the beginning thereof the following center heading:

"EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION";

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

(4) Section 313 of the Congressional Budget Act of 1974 is amended—

(A) in subsections (a), (b)(1)(A), and (c), by striking "of the Congressional Budget Act of 1974";

(B) in subsection (a), by striking "(d)" and inserting "(b)";

(C) in subsection (b)(2)(C), by adding "or" at the end thereof;

(D) in subsection (c), by striking "when" and inserting "When";

(E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and

(F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 (as added by section 12606(c)) the following new item:

"Sec. 313. Extraneous matter in reconciliation legislation.".

Subtitle I—Budget Submissions in New Administrations

SEC. 12451. REQUIREMENT FOR NEW PRESIDENT'S BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by striking "February 5 in 1986" and inserting "March 15 in any year in which a new President takes office on January 20, not having been President on January 19".

SEC. 12452. DEADLINES IN YEARS WHEN A NEW PRESIDENT TAKES OFFICE.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(a), by inserting after "April 15 of each year" the following: "(or May 15 in a year to which section 300(b) applies";

(2) in section 301(d), by striking "February 25 of each year" and inserting "March 1 of each year (or April 15 in a year to which section 300(b) applies"; and

(3) in section 303(b), by inserting after "May 15 of any calendar year" the following: "(or June 1 in a year to which section 300(b) applies".

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(2)(A), by striking "October 15, 1987, in the case of fiscal year 1988" and inserting "March 10 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies";

(2) in section 251(a)(2)(B), by striking "October 20, 1987, in the case of fiscal year 1988" and inserting "March 15 in years when section 300(b) of the Congressional Budget Act of 1974 is in effect"; and

(3) in section 252(a)(1), by striking "October 20, 1987, in the case of the fiscal year 1988" and inserting "March 15 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies".

Subtitle J—Repeal of Superseded Deadlines

SEC. 12501. SUPERSEDED DEADLINES AND CONFORMING CHANGES.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended—

(1) in section 305, by—

(A) striking subsection (d); and

(B) redesignating subsection (e) as subsection (d);

(2) by repealing section 307; and

(3) in section 310, by—

(A) striking subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of

1974 is amended by striking the item for section 307 and inserting the following:
"Sec. 307. Repealed.".

Subtitle K—Standardization of Points of Order

SEC. 12551. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 311(a)—

(A) in the matter before paragraph (1), 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

(B) by striking ", if—" and paragraphs (1), (2), and (3) and inserting "that";

(2)(A) in section 302(c), by striking "bill or resolution, or amendment thereto" and inserting "bill, resolution, amendment, motion, or conference report";

(B) in section 302(f)(2), by striking "bill or resolution (including a conference report thereon), or any amendment to a bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(C) in section 303(a), by striking "bill or resolution (or amendment thereto)" and inserting "bill, resolution, amendment, motion, or conference report";

(D) in section 306, by striking "bill or resolution, and no amendment to any bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(E) in section 311(a), by—

(i) striking "bill, resolution, or amendment" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any conference report on any such bill or resolution";

(F) in section 401(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)";

(G) in section 401(b)(1), by—

(i) striking "bill or resolution" and inserting "bill, resolution, resolution of ratification, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)"; and

(H) in section 402(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any amendment";

(3) in section 302(f)(2), by striking "outlays or new budget authority" and inserting "outlays, new budget authority, or new spending authority (as defined in section 401(c)(2))";

(4) in section 303(a), by—

(A) amending paragraph (4) to read as follows:

"(4) new spending authority (as defined in section 401(c)(2)) for a fiscal year;";

(B) striking the comma at the end of paragraph (5) and inserting "; or"; and

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

"(6) outlays,";

(5) in section 401(a), by striking "(A) or (B)" both times it appears and inserting "(A), (B), or (D)";

(6) in section 401(c), by striking the last sentence;

(7) in section 401(d), by striking "Subsections (a) and" and inserting "Subsection"; and

(8) in section 402(b), by inserting after "including" the following: "(but not limited to)".

(b) POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—

(1) Part A of title III of the Congressional Budget Act of 1974 as amended by section 12401(b), is amended by adding at the end thereof the following new section:

"EFFECTS OF POINTS OF ORDER

"SEC. 314. POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order against an amendment between the Houses. If a point of order under this Act is raised in one House against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if that House had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(2) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 313 (as added by section 12401(b)(5)) the following new item:

"Sec. 314. Effect of points of order.".

(c) ADJUSTMENT OF ALLOCATIONS AND AGGREGATES TO REFLECT CHANGES PURSUANT TO SECTION 310(c).—Section 310(c) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "(1)" before "Any committee";

(2) redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(4) inserting at the end thereof the following new paragraph:

"(2)(A) Upon the reporting to the Committee on the Budget of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget may file with the reporting committee's House appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(B) Upon the submission to the Senate or the House of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairmen of the Committees on the Budget may file with their respective Houses appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

"(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting Committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.".

(d) RECONCILIATION INSTRUCTIONS.—Section 310(a)(4) of the Congressional Budget Act of 1974 is amended by inserting after "(3)" the following: "(including a direction to achieve deficit reduction)".

SEC. 12552. DEFINITIONS.

(a) BUDGET AUTHORITY.—Section 3(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, including the following:

"(i) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend the proceeds of offsetting receipts or offsetting collections from the public;

"(ii) 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;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(iv) 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) ESTIMATES OF BUDGET AUTHORITY.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimate), and includes contingent budget 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—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a legislated change in the estimated level of new budget authority provided in indefinite amounts by existing law.".

(b) ENTITLEMENT AUTHORITY.—Section 3(9) of the Congressional Budget Act of 1974 is amended to read as follows:

"(19) ENTITLEMENT AUTHORITY.—

"(A) 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 of budget authority that may be available to make those payments, including any entitlement authority estimated to exist.

"(B) Except as provided in subparagraph (C), if a provision of law that requires the Government to make payments is limited by any other provision of law to the amount available budget authority (by providing pro rata reductions in payments, changes in eligibility, changes in employment, or through other means), then entitlement authority does not exist.

"(C) For purposes of paragraph (B), subchapter II of chapter 13 of title 31 of the United States Code shall not be considered a provision of law that limits entitlement authority to the amount of available budget authority.

"(D) The term 'new entitlement authority' means any legislation creating entitlement authority (or altering existing entitlement authority that was enacted before the date

of adoption of the most recently agreed-to budget resolution, and includes legislation that has the effect of changing the estimated level of entitlement authority created in indefinite amounts of existing law.".

(c) GERMANENESS.—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 germane unless it complies with the precedents of the Senate, deals with the same subject matter as the matter to which it is germane, and is within the same committee jurisdiction as the matter to which it is germane".

Subtitle L—Codification of Budget Process Provisions

SEC. 12601. 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 "his fitness to perform his duties" and inserting "fitness to perform the duties of the office of Director";

(3) in section 201(a)(3)—

(A) by striking "his successor" in both places it appears and inserting "a successor";

(B) by striking "him" and inserting "that Deputy Director";

(4) in section 201(d)—

(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(b)(2), by striking "his" and inserting "the minority leader's";

(7) in section 305(c)(3), by striking "his" both times it appears and inserting "the minority leader's";

(8) in section 305(c)(4), by striking "his" and inserting "the minority leader's";

(9) in section 1012(a)(1), by striking "he" and inserting "the President";

(10) in section 1014(b)(2)(B), by striking "his" and inserting "the Comptroller General's";

(11) in section 1014(c), by striking "him" and inserting "the Comptroller General";

(12) in section 1014(e)(1)(A), by striking "he" 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 1017(d)(2), by striking "his" 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"; and

(17) in section 1017(d)(7), by striking "his" and inserting "the minority leader's".

(b) OMB REPORTS.—Section 251(a)(2)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "his estimate" and inserting "the estimate of the Director of OMB".

(c) MILITARY PERSONNEL FLEXIBILITY.—Section 251(d)(3)(C) of such Act is amended by striking "he" and inserting "the President".

(d) PROCEDURES IN THE EVENT OF RECESSION.—Section 254(a)(4)(C)(iii) of such Act is amended by striking "his" and inserting "the minority leader's".

SEC. 12602. REPEAL OF OBSOLETE PROVISIONS.

(a) CONGRESSIONAL BUDGET ACT OF 1974.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(i)(2), by

(A) striking "(A)";

(B) striking subparagraph (B); and

(C) striking "(C) For purposes of the application of subparagraph (B), the" and inserting "(3) The";

(2) in section 311(a), by striking "that—" and subparagraph (A) and (B) through "fiscal year 1989;" and inserting "that exceeds the maximum deficit amount for such fiscal year under section 3(7),"; and

(3) in section 401(d), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "(or as of October 10, 1987, in the case of fiscal year 1988)";

(2) in section 251(a)(2)(B)(iii), by striking "except fiscal year 1988)";

(3) in section 251(a)(2)(B)(iv), by striking "(except fiscal year 1988)";

(4) in section 251(a)(2)(B)(iv), by striking the second sentence;

(5) in section 251(a)(2)(C)—

(A) by striking clause (iii);

(B) in clause (iv) by striking "For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year" and inserting "To the extent that the report submitted by the President for a fiscal year"; and

(C) by redesignating clause (iv) as clause (iii);

(6) in section 251(a)(3)(A)(i) by—

(A) striking "be—" and subclauses (I) and (II); and

(B) striking "(III) for fiscal year 1990, 1991, 1992, or 1993," and inserting "be";

(7) in section 251(a)(3)(A)(i), by striking "The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989.";

(8) in section 251(a)(3)(A)(ii), by striking "means—(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), 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";

(9) in section 251(a)(6)(D)(i), by—

(A) striking clause (I);

(B) striking "(II) in the case of fiscal year 1989 and subsequent fiscal years—"; and

(C) redesignating divisions (aa) and (bb) as subclauses (I) and (II), respectively;

(10) in section 251(c)(1), by striking "November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years," and inserting "November 10,";

(11) in section 251(c)(1)(A), by striking "(or after October 10, 1987, in the case of the fiscal year 1988),";

(12) in section 251(c)(2), by striking "November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years," and inserting "November 15,";

(13) in section 251(d)(3)(C), by striking "October 10, 1987, in the case of fiscal year 1988, or";

(14) in section 251(d)(3)(C), by striking "in the case of any subsequent fiscal year,";

(15) in section 252(a)(6), by—

(A) striking subparagraph (A); and

(B) striking "(B) FISCAL YEARS 1989-1993.—";

(16) in section 252(a)(6), by striking "the fiscal year 1989 or any subsequent fiscal year" and inserting "any fiscal year";

(17) in section 252(a)(6)(F), by striking "and paid land diversion payments";

(18) in section 252(b)(1), by striking "(or on November 20, 1987, in the case of fiscal year 1988)";

(19) in section 252(b)(2), by striking "(or October 10, 1987, in the case of fiscal year 1988)";

(20) in section 252(c)(2)(D), by striking "November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before";

(21) in section 253, by striking "(or 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 based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;".

SEC. 12603. STANDARDIZATION OF ADDITIONAL DEFICIT CONTROL PROVISIONS.

(a) Section 904 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, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), and 258(b)(3)(C)(ii) 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

(2) in subsection (d) by inserting at the end thereof the following: "An affirmative vote of three-fifths 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, 904(c), and 904(d). An affirmative vote of three-fifths 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 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), 258(b)(3)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 275(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 section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act."

SEC. 12604. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g).

(b) TRANSFER.—The text of section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section

201 of the Congressional Budget Act of 1974 and is designated as subsection (f)(1).

(c) CONFORMING CHANGES.—Section 201(f) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(2) inserting "REVENUE ESTIMATES.—(1)" before the first sentence.

SEC. 12606. CODIFICATION 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, receipt, or 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.".

SEC. 12608. TECHNICAL REVISIONS OF GRAMM-RUDMAN-HOLLINGS.

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

(1) in section 251(a)(6)(B)—

(A) by striking "and" the last time it appears; and

(B) 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";

(2) in section 251(a)(6)(J), by striking "and" at the end thereof;

(3) in section 251(a)(6)(K) by adding "and" at the end thereof; and

(4) in section 251(a)(6), by inserting after subparagraph (K) the following new subparagraph:

"(L) 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 enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of—

"(i) amounts previously sequestered, and

"(ii) savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for 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(11) by inserting at the end thereof the following new paragraph:

"(V) the accounts (or portions of accounts) set forth on the list entitled 'Accounts Which Are Mandatory or Which Have Discretionary and Mandatory Splits and Are Scored to the Appropriations Committee' that is attached to the 'Scorekeeping Guidelines for the Bipartisan Budget Agreement of April 14, 1989';

(7) in section 251(d)(3)(C) by striking "Congress" and inserting "Senate and the House of Representatives";

(8) in section 252(c)(2)—

(A) in subparagraph (F)(ii) by striking "insofar as they relate to major function 050 (national defense)." and inserting ". For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense).''; and

(B) in subparagraph (F)(iii) by—

(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 "is not debatable. 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) by—

(i) striking "insofar as they relate to major function 050 (national defense)";

(ii) inserting after "in order in the Senate." the following: "For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense).''; and

(iii) striking "the majority leader and the minority leader (or their designees)." and inserting ", and controlled by, the mover and the majority leader (or their designees), 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.";

(D) in subparagraph (H)(iii) by inserting after "previously amended" the following: ", so long as the amendment makes or maintains mathematical consistency";

(E) in subparagraph (I), by inserting "pending" after "House, and the disposition of any";

(F) in subparagraph (L)(ii)(II)(bb)—

(i) by striking "it" and inserting "the Senate joint resolution";

(ii) by inserting "House" after "passed the";

(9) in section 254(a)—

(A) in paragraph (1)(B), by striking "the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof)" and inserting "the most recent of advance, preliminary, and final reports of the Department of Commerce of actual real economic growth";

(B) in paragraph (2)(A), in paragraph (1) of the quoted material, by striking "and 311(a)" and inserting "310(d), 311(a), 313(b)(1)(B), and 313(b)(1)(E)";

(C) in paragraph (2)(A), in paragraph (2) of the quoted matter, by striking "and 311(a) (except insofar as it relates to section 3(7))" and inserting "310(d), 311(a) (except insofar as it relates to section 3(7)), 313(b)(1)(B), and 313(b)(1)(E)";

(D) in paragraph (2)(A), in the quoted matter following paragraph (2) of the quoted material, by striking "resolution" and inserting "resolution, but shall suspend any initial order that was issued under section 252(a) of that Act if the final order for the same fiscal year has not yet been issued by the date of the enactment of this joint resolution"; and

(E) in paragraph (4)(C), by striking the text of clause (i) and inserting "In the Senate, the joint resolution under this clause is privileged. It shall not be in order to move to reconsider the vote by which the motion to proceed to the consideration of the joint resolution is agreed to or disagreed to.";

(10) in section 251(e), by striking "preceding provisions of this section" and inserting "provisions of this part";

(11) in section 258—

(A) in subsection (a), by inserting "or provide an alternative to reduce the deficit" after "section 252";

(B) in subsection (b)(2) by—

(i) striking "22" and inserting "XXII";

(ii) inserting "the joint resolution is" after "The motion is highly privileged in the House of Representatives; and";

(iii) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment";

(C) in subsection (b)(3)(C)(ii)—

(i) by striking "or relevant"; and

(ii) by striking "the majority leader and the minority leader (or their designees)," and inserting ", and controlled by, the mover and the majority leader (or their designees), 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.";

(D) in subsection (b)(4), by inserting "pending" after "any";

(E) in subsection (b)(7)(B)(ii)(II) by—

(i) striking "it" and inserting "the Senate joint resolution"; and

(ii) inserting "House" after "passed the";

(12) in section 256(a)(2), by adding at the end thereof the following: "For the purposes of a sequester in a fiscal year, no withholding from obligation or expenditure shall be made from programs financed through special or trust funds in excess of the sequester percentage for such fiscal year.";

(13) in section 256(f), by adding before the last sentence the following: "No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the domestic sequester percentage.";

(14) 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.";

(15) in section 256(a), by adding at the end thereof the following new paragraphs:

"(3) MATCHING RATES.—Except as specifically provided in this Act, no reduction may be made to a Federal matching rate to implement a sequester.

"(4) SEQUESTRATION WITHIN EACH PROGRAM, PROJECT, OR ACTIVITY.—Administrative actions implementing a sequester for a budget account shall be limited to reducing the budgetary resources for each program, project, or activity in that account, and allocating the post-sequester base thereto. To the extent that formula allocations differ 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.";

(16) in section 251(a)(5) by inserting after "laws enacted by," the following: "treaties ratified by,";

(17) in section 251(c)(1)(A) by inserting after "laws enacted" the following: ", treaties ratified,";

(18) in section 252(b)(2) by inserting after "laws enacted" the following: ", treaties ratified,"; and

(19) in section 257, by adding at the end thereof the following new paragraph:

"(12) The term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum deficit amount for that fiscal year.".

SEC. 12699. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.

Section 305(c) of the Congressional Budget Act 1974 is amended—

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after "consideration of the conference report" the following: "on any concurrent resolution on the budget"; and

(2) in paragraph (2), by inserting "(or a message between Houses)" after "conference report" each place it appears.

SEC. 12610. CONFORMING CHANGE TO TITLE 31.

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31 of the United States Code is amended—

(1) in subparagraph (A), by striking the final word "or";

(2) in subparagraph (B)—

(A) by striking "law" and inserting "an Act of Congress"; and

(B) by striking the final period and inserting a semicolon; and

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

"(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31 of the United States Code is amended—

(1) by striking "law" and inserting "an Act of Congress"; and

(2) by inserting at the end thereof the following: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.".

Subtitle M—Budget Disclosure

SEC. 12651. DEBT INCREASE AS MEASURE OF DEFICIT.

(a) FINDINGS.—The Congress makes the following findings:

(1) While the annual deficits, as defined under current law, appear to be decreasing, the Federal debt continues to increase annually by significantly greater amounts.

(2) Displaying the increase in the debt as a measure of the deficit would illuminate this discrepancy.

(b) DEBT INCREASE AS MEASURE OF DEFICIT.—

(1) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for all fiscal years covered by that budget submission, a heading entitled 'Debt Increase as Measure of Deficit' in which the President shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31, United States Code) has increased or would increase in each of the relevant fiscal years.".

(2) Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12152(c) is amended—

(A) in paragraph (6), by striking "and" at the end thereof;

(B) in paragraph (7), by striking the period at the end thereof and inserting: "; and"; and

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

"(8) a heading entitled 'Debt Increase as Measure of Deficit' in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years.".

SEC. 12652. CONTINGENT LIABILITIES OF THE FEDERAL GOVERNMENT.

(a) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(26) a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting before the period at the end thereof the following: ", as well as a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles".

SEC. 12653. DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

(a) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, as amended by section 12651(b)(1), is amended by adding at the end thereof the following new subsection:

"(h) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for the fiscal year covered by that budget submission, a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the President shall set forth the balances of the Federal retirement trust funds.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12651(b)(2), is amended—

(1) in paragraph (7), by striking "and" at the end thereof;

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

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

"(9) a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.".

Subtitle N—Exercise of Rulemaking Powers

SEC. 12701. EXERCISE OF RULEMAKING POWERS.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as they relate to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XIII—SOCIAL SECURITY PRESERVATION

SEC. 1301. 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(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.

TITLE XIV—REDUCTION OF PAY FOR MEMBERS

SEC. 1401. 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, any executive officer or employee in the Executive Office of the President who on the date of the 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. LEAHY, Mr. PRYOR, Mr. BOREN, Mr. KERREY, Mr. LUGAR, 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. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. EXON, Mr. BREAUX, Mr. ROCKEFELLER, Mr. KERRY, Mr. DANFORTH, Mr. PACKWOOD, Mr. STEVENS, Mr. KASTEN, Mr. MCCAIN, and Mr. BURNS;

From the Committee on Energy and Natural Resources: Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. MCCLURE, 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. LEAHY, 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.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

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:

TITLE XIII—REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

Subtitle A—Individual Income Tax Provisions; Luxury Excise Tax

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

SEC. 13101. 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:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

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

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,500.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—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, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) 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:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150."

(b) 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(f)(6) (relating to ad

justments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) 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) taxable income reduced by 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 DEDUCTION.—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."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

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

(B) Subparagraph (B) of section 32(i)(1) is amended by striking #"1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

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

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

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

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13102. 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 "21 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. 13103. 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 VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

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

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. 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—

"(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 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 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13104. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.

"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.

"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.

"Sec. 4002. Boats.

"Sec. 4003. Aircraft.

"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $100,000 ($30,000 in the case of a passenger vehicle).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.

"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $10,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him. "(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him. "(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of

taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13105. 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) $100,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $100,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

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

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

PART II—DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS

SEC. 13111. DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS.

(a) INCOME TAX BRACKETS.—Subsection (f) of section 1 (as amended by section 13101) is amended—

(1) by striking "1990" in paragraph (1) and inserting "1991", and

(2) by striking "1989" in paragraph (3)(B) and inserting "1990".

(b) AMOUNT OF PERSONAL EXEMPTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 151(d) (relating to allowance of deductions for personal exemptions) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'exemption amount' means $2,050.".

(2) INDEXING AFTER 1991.—Paragraph (3) of section 151(d) is amended—

(A) by striking "paragraph (1)(C)" and inserting "paragraph (1)",

(B) by striking "after 1989" each place it appears and inserting "after 1991", and

(C) by striking ", by substituting" in subparagraph (B) and all that follows and inserting a period.

(c) CONFORMING AMENDMENTS.—

(1) Each of the following provisions (as amended by section 13101) is amended by striking "1989" and inserting "1990":

(A) Section 32(i)(1)(B).

(B) Clauses (i) and (ii) of section 41(e)(5)(C).

(C) Section 63(c)(4)(B).

(D) Section 513(h)(2)(C)(ii).

(2) Clause (ii) of section 135(b)(2)(B) (as so amended) is amended by inserting before the period at the end thereof the following: "determined by substituting 'calendar year 1989' for 'calendar year 1990' in subparagraph (B) thereof".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART III—PROVISIONS RELATED TO EARNED INCOME TAX CREDIT

SEC. 13121. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—

(1) Subsection (a) of section 32 is amended by striking "14 percent" and inserting "the credit percentage".

(2) Paragraph (2) of section 32(b) is amended by striking "10 percent" and inserting "the phaseout percentage".

(3) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) CREDIT PERCENTAGE AND PHASEOUT PERCENTAGE.—The credit percentage and the phaseout percentage for any taxable year shall be determined in accordance with the following table:

If the taxable year begins during:	The credit percentage is:	The phaseout percentage is:
1991	18.5	13.0
1992 or 1993	19.0	13.5
1994 or thereafter	20.0	14.0."

(b) CONFORMING AMENDMENT.—Subparagraphs (B)(i) and (C)(i) of section 3507(c)(2) are each amended by striking "14 percent" and inserting "the credit percentage".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13122. SIMPLIFICATION OF ELIGIBILITY FOR EARNED INCOME TAX CREDIT.

(a) ELIGIBILITY.—Section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year."

(b) QUALIFYING CHILD DEFINED.—Section 32(c) is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—The requirements of this subparagraph are met if the taxpayer includes the following information on the return of tax for such taxable year (or provides such information to the Secretary in such other manner as the Secretary may prescribe):

"(i) the name and age of such individual, and

"(ii) if the individual has attained the age of 1 before the close of the taxpayer's taxable year, the taxpayer identification number of such individual.

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States."

(c) SEPARATE SCHEDULE REQUIRED.—The Secretary of the Treasury or his delegate shall prescribe a separate schedule to be included as part of the return of tax of any individual claiming a credit under section 32 of the Internal Revenue Code of 1986 on such return.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART IV—CAPITAL GAINS PROVISIONS

Subpart A—Reduction in Capital Gains Tax for Individuals

SEC. 13131. 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. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) 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—

"(1) the annual capital gains deduction (if any) determined under subsection (b), plus

"(2) the lifetime capital gains deduction for nontradable property (if any) determined under subsection (c).

"(b) ANNUAL CAPITAL GAINS DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the annual capital gains deduction determined under this subsection is the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) $1,000.

"(2) PHASE-OUT FOR INCOMES BETWEEN $100,000 AND $150,000.—The $1,000 amount specified in subparagraph (B) of paragraph (1) shall be reduced by an amount which bears the same ratio to $1,000 as—

"(A) the adjusted gross income of the taxpayer for the taxable year in excess of $100,000, bears to

"(B) $50,000.

"(3) CERTAIN INDIVIDUALS NOT ELIGIBLE.—This subsection shall not apply to—

"(A) any taxpayer whose adjusted gross income for the taxable year exceeds $150,000, or

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(4) ANNUAL DEDUCTION NOT AVAILABLE FOR SALES TO RELATED PERSONS.—The amount of the net capital gain taken into account under paragraph (1)(A) shall not exceed the amount of the net capital gain determined by not taking into account gains and losses from sales and exchanges to any related person (as defined in section 543(f)).

"(c) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a), 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.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount of the qualified gain taken into account under paragraph (1) for any taxable year shall not exceed $200,000 reduced by the aggregate amount of the qualified gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) 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 between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) QUALIFIED GAIN.—For purposes of paragraph (1), the term 'qualified gain' means 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.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified gain for such taxable year. Such an election, once made, shall be irrevocable.

"(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) of a kind regularly traded on an established market.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(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 PARTNERSHIPS, ETC.—For purposes of subsection (c), any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of subsection (c)(4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(2) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES ON OR AFTER OCTOBER 15, 1990.—The amount of the net capital gain taken into account under subsections (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—

"(i) without regard to the deduction allowed under this section, but

"(ii) after the application of sections 86, 135, 219, and 469.

"(B) COORDINATION WITH OTHER ADJUSTED GROSS INCOME LIMITATIONS.—For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(4) TRANSITIONAL RULE.—If for any taxable year beginning before January 1, 1991, subsection (c)(1) shall be applied by substituting '41 percent' for '50 percent'.

"(5) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity—

"(i) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(ii) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of subsection (c)(4)

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru-entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,
"(iii) an S corporation,
"(iv) a partnership,
"(v) an estate or trust, and
"(vi) 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 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 shall apply 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, ETC.—For purposes of subparagraph (A), any gain 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 collectibles 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)."

(2) CHARITABLE DEDUCTION 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) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY NOT ALLOWED.—The deduction under section 1202(a)(2) shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Paragraph (2) of section 172(d) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(4)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(5) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(6) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(7) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for individuals."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after October 15, 1990.

(2) TREATMENT OF COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions on or after October 15, 1990.

Subpart B—Depreciation Recapture

SEC. 13135. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected 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 exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking "additional depreciation" each place it appears and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting the following:

"(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction."

(5) Subsection (d) of section 1250 is amended by striking paragraph (10).

(6) Section 1250 is amended by striking subsections (e), (f), and (g) and by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

(7) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(8) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (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 "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(d) 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.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 13201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$13.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.50".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.27".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.77".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.35".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.50".

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the per wine gallon rates of the taxes imposed by this section shall be the following amounts on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during 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 rules of section 5051(a)(2)(B) 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 person who produces more than 200,000 wine gallons of wine during a calendar year."

(3) CONFORMING 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 to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1 per proof gallon in the case of distilled spirits,

(ii) $1.10 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, the tax imposed by paragraph (1) shall not apply to such wine if the rate of tax under section 5041 of such Code on such wine would have been determined under subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990. A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $240 to the extent such taxes are attributable to distilled spirits,

(B) $330 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $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 by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 13202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the price for which sold but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the price for which sold but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "1/2 cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF 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 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as 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 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Se#cretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and 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) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) 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.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 13201(e)(5) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 13203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	tetrachloromethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF_3Cl
CFC-111	C_2FCl_5
CFC-112	$C_2F_2Cl_4$
CFC-211	C_3FCl_7
CFC-212	$C_3F_2Cl_6$
CFC-213	$C_3F_3Cl_5$
CFC-214	$C_3F_4Cl_4$
CFC-215	$C_3F_5Cl_3$
CFC-216	$C_3F_6Cl_2$
CFC-217	C_3F_7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the

amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SEC. 13211. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (C) of section 4041(k)(1) is amended to read as follows:

"(C) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of g#asoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on December 1, 1990.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) INCREASES IN TAX REVENUES BEFORE 1993 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 be applied without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990."

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(5) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13212. AMENDMENTS TO GAS GUZZLER TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	$ 0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) LIMOUSINES INCLUDED WITHOUT REGARD TO WEIGHT.—Subparagraph (A) of section 4064(b)(1) is amended by adding at the end thereof the following new sentence:

"In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii)."

(c) REPEAL OF EXCEPTION FOR LENGTHENING EXISTING AUTOMOBILES.—Subparagraph (B) of section 4064(b)(5) (defining manufacturer) is amended to read as follows:

"(B) LENGTHENING TREATED AS MANUFACTURE.—For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person."

(d) REPEAL OF SPECIAL RULES FOR SMALL MANUFACTURERS.—Section 4064 is amended by striking subsection (d).

(e) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to sales after December 31, 1990.

(2) Subsection (c).—The amendments made by subsection (c) shall take effect on January 1, 1991.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall take effect on the date of the enactment of this section.

SEC. 13213. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 13214. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1998."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13215. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 13301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION PERIOD FOR SMALL COMPANIES.—

"(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 806(a)(3); except that—

"(A) paragraph (1)(A) of section 806(c) shall be applied by substituting 'insurance' for 'life insurance' each place it appears, and

"(B) paragraph (2) of section 806(c) shall not apply.

"(3) 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 with any insurance company unless each insurance company which takes into account premiums with respect to the reinsured contract is a small company.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.5 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 1.80 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 6.75 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(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 (e)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(h) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally acccpted accounting principles as if this subsection applied to such contracts for all taxable years.

"(i) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 13302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsections (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3⅓ percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 13303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 13305. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) FRESH START.—Notwithstanding section 481 of the Internal Revenue Code of 1986, the net amount of the adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall not be required to be taken into account for any taxable year.

(3) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(4) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined without regard to the preceding sentence.

Subpart C—Waiver of Estimated Tax Penalties

SEC. 13307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax 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 is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 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 "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART III—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 13321. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13322. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13323. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 13325. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13326. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART IV—CORPORATE PROVISIONS

SEC. 13331. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distrib-

uting corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 13332. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 13333. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) Transactions.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(ii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13334. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13335. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date.

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence: "Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

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

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1990.

SEC. 13342. EXTENSION OF SURTAX ON UNEMPLOYMENT TAX.

(a) GENERAL RULE.—Subsection (a) of section 3301 (relating to rate of unemployment tax) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) 6.2 percent in the case of calendar years before 1996, or

"(2) 6.0 percent in the case of calendar year 1996 and each calendar thereafter,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar years after 1990.

SEC. 13343. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 13351. SPECIAL RULES WHERE GRANTOR OF TRUST IS A FOREIGN PERSON.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—

"(1) IN GENERAL.—If—

"(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).

"(2) 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 (c)(1)(B)."

(b) INCREASE IN PENALTY FOR INTENTIONAL DISREGARD OF 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 6050I(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 6050I is amended to read as follows:

"(f) STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.—".

(d) STUDY.—The Secretary of the Treasury or his delegate 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 ways Form 8300 could be simplified, 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 6050I(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).

SEC. 13353. PART B PREMIUM.

Section 1839(e) 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 $31.70,

"(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 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".

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

OMNIBUS BUDGET RECONCILIATION ACT

HOLLINGS (AND OTHERS) AMENDMENT NO. 3033

Mr. HOLLINGS (for himself, Mr. HEINZ, Mr. MOYNIHAN, Mr. MCCAIN, Mr. PRESSLER, Mr. MCCONNELL, Mr. GRAHAM, Mr. MCCLURE, 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 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".

MITCHELL (AND OTHERS) AMENDMENT NO. 3046

Mr. MITCHELL (for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD, and Mr. BENTSEN) proposed an amendment to the bill S. 3209, supra, as follows:

At the end of the bill, insert the following new title:

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

SEC. 12001. SHORT TITLE.

This title may be cited as the "Budget Process Reform Act of 1990".

SEC. 12002. TABLE OF CONTENTS.

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

Subtitle A—Deficit Reduction

SEC. 12051. DEFICIT TARGETS.

(a) DEFINITION OF MAXIMUM DEFICIT.—Section 3(7) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (F), (G), and (H), and inserting the following:

"(F) with respect to the fiscal year beginning October 1, 1990, $242,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $219,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $165,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $86,000,000,000; and

"(J) with respect to the fiscal year beginning October 1, 1994, $62,000,000,000; or with respect to each such fiscal year, such revised amounts as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(E) of that Act.".

(b) BUDGET ESTIMATES AND DETERMINATIONS.—Section 251(a)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in subparagraph (A), by inserting after "such fiscal year" the following: "(and each other fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts)";

(2) in subparagraph (C), by striking "and" at the end thereof; and

(3) by inserting at the end thereof the following new subparagraphs:

"(E)(i) in calendar years 1991 and 1992, estimate the necessary revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused solely by—

"(I) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(II) economic and technical changes, which shall equal—

"(aa) the deficit in the budget baseline set forth pursuant to paragraph (6) of this subsection, minus

"(bb)(aaa) the net deficit increase (if any) caused by laws (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)) enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (adjusting for any sequestration), and

"(bbb) the maximum deficit amount as it existed immediately before the issuance of the report, and

"(ii) in calendar year 1993, estimate the revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused by only changes in the budgetary accounting for credit; and

"(F) estimate the necessary revisions to the defense, international, and domestic discretionary spending allocations set forth in section 12052 of the Omnibus Budget Reconciliation Act of 1990 for each appropriate fiscal year caused solely by—

"(i) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(ii) changes in forecasted inflation using only changes in the forecast of the fiscal year average of the estimated gross national product fixed-weight price deflator.".

SEC. 12052. DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 050 (National Defense) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $288,918,000,000.

(ii) outlays, $297,660,000,000.

(B) for fiscal year 1992:

(i) new budget authority, $291,643,000,000,
(ii) outlays, $295,744,000,000, and
(C) for fiscal year 1993:
(i) new budget authority, $291,785,000,000,
(ii) outlays, $292,686,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(b) AGGREGATE ALLOCATIONS FOR INTERNATIONAL AFFAIRS.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:
(i) new budget authority, $20,100,000,000,
(ii) outlays, $18,600,000,000,
(B) for fiscal year 1992:
(i) new budget authority, $20,500,000,000,
(ii) outlays, $19,100,000,000, and
(C) for fiscal year 1993:
(i) new budget authority, $21,400,000,000,
(ii) outlays, $19,600,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(c) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and outlays for fiscal years 1991, 1992, and 1993 for all discretionary spending in categories other than major functional categories 050 (National Defense) and 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:
(i) new budget authority, $182,700,000,000,
(ii) outlays, $198,100,000,000,
(B) for fiscal year 1992:
(i) new budget authority, $191,300,000,000,
(ii) outlays, $210,100,000,000, and
(C) for fiscal year 1993:
(i) new budget authority, $198,300,000,000,
(ii) outlays, $221,700,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(d) AGGREGATE ALLOCATIONS FOR DISCRETIONARY SPENDING.—The levels of budget authority and outlays for fiscal years 1994 and 1995 for discretionary spending shall be—

(1)(A) for fiscal year 1994:
(i) new budget authority, $510,800,000,000,
(ii) outlays, $534,800,000,000, and
(B) for fiscal year 1995;
(i) new budget authority, $517,700,000,000,
(ii) outlays, $540,800,000,000, or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(e) BUDGET RESOLUTIONS.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives shall report a concurrent resolution on the budget for fiscal years 1992, 1993, 1994, and 1995 pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a), (b), and (c).

(g)(1) ADDITIONAL TECHNICAL REVISIONS.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985) to allow increased funding in the following amounts, and such amounts shall be added to the allocations under section 12052 and shall not be counted as increasing the deficit for purposes of sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) in addition to any other amounts under this paragraph, for each of fiscal years 1992 and 1993, in the amounts of—

(i) up to 0.021 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for defense discretionary spending budget authority under subsection (a); and

(ii) up to 0.079 percent of the total of budget authority in the allocations made in subsections (a), (b), and (c) (together) for fiscal years 1991, 1992, and 1993 (together), for international affairs discretionary spending budget authority under subsection (b);

(iii) 0.1 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for domestic discretionary spending budget authority under subsection (c);

(B) in addition to any other amounts under this paragraph, the estimated costs of an appropriation enacted in calendar year 1990 or 1991 that forgives the Arab Republic of Egypt's Foreign Military Sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States;

(C) in the addition to any other amounts under this paragraph, the amount provided by an appropriation enacted in fiscal year 1992 to purchase Special Drawing Rights from the International Monetary Fund as part of its Ninth General Review of Quotas;

(D) in addition to any other amounts under this paragraph, amounts not to exceed the following for the Internal Revenue Service compliance initiative to be provided to raise additional revenues from increased Internal Revenue Service compliance—

(i) for fiscal year 1991:
(I) new budget authority, $191,000,000,
(II) outlays, $183,000,000,
(ii) for fiscal year 1992:
(I) new budget authority, $172,000,000,
(II) outlays, $169,000,000,
(iii) for fiscal year 1993:
(I) new budget authority, $183,000,000,
(II) outlays, $179,000,000,
(iv) for fiscal year 1994:
(I) new budget authority, $187,000,000,
(II) outlays, $183,000,000, and
(v) for fiscal year 1995:
(I) new budget authority, $188,000,000,
(II) outlays, $184,000,000; and

the prior-year outlays resulting from these appropriations of budget authority; and

(E) in addition to any other amounts under this paragraph, such amounts as the President designates as emergency requirements in a request for appropriations and that the Congress so designates in statute.

Emergency Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

(2) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 of the Congressional Budget Act of 1974 may set forth levels consistent with allocations increased by—

(A) the budget authority amounts in subparagraph (A) and by the composite outlays per category consistent with them; and

(B) the budget authority and outlay amounts in subparagraph (B), (C), (D), (E), and (F).

(h)(1) FURTHER ADDITIONAL TECHNICAL REVISIONS.—(1) Notwithstanding any other provision of law, the Director of the Office of Management and Budget may make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985, but solely due to outlays exceeding the amount of outlays set forth in subsections (a), (b), and (c), resulting from changes between outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in subsections (a), (b), and (c), less any outlays used pursuant to subsections (g)(1)(A) to allow increased funding in the following amounts and such amounts shall not be counted as increasing the deficit under sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) for each of fiscal years 1991, 1992, and 1993, in the amounts of—

(i) $2,500,000,000 for defense discretionary spending outlays under subsection (a);

(ii) $1,500,000,000 for international affairs discretionary spending outlays under subsection (b); and

(iii) $2,500,000,000 for domestic discretionary spending outlays under subsection (c); and

(B) for each of fiscal years 1994 and 1995, in the amount of $6,500,000,000 for discretionary spending outlays under subsection (d).

SEC. 12053. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

(a) DATE OF FINAL ORDER.—

(1)(A) The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(i) in section 251(c)(1), by striking "October 10" and inserting "November 10";

(ii) in section 253, by striking "November 15" and inserting "December 15";

(iii) in section 252(b)(1), by striking "October 15" and inserting "November 15";

(iv) in section 252(c)(2)(D), by striking "October 20" and inserting "November 20"; and

(v) in section 257(c)(2), by striking "October 15" and inserting "November 15".

(B) The amendments made by this paragraph shall take effect beginning in calendar year 1991.

(b) SPENDING CATEGORY SEQUESTER.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 252 the following:

"SEC. 252A. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

"(a) REPORTING OF EXCESS.—

"(1) ESTIMATES AND DETERMINATIONS.—The Directors shall, with respect to each appropriations Act—

"(A) determine the aggregate budget levels of outlays that may be anticipated as a result of the enactment of such appropriations Act—

"(i) for the defense, international affairs, and domestic discretionary categories as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1991, 1992, and 1993; and

"(ii) for discretionary spending as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1994 and 1995; and

"(B) determine whether such Appropriations Act causes the aggregate allocation for budget authority or outlays in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as revised under that section and section 251(a)(1)(F) of this Act) to be exceeded.

"(2) REPORT.—Based on the determinations required in paragraph (1), the Directors of the Congressional Budget Office and the Office of Management and Budget shall each report to the President not later than 5 days after the enactment of an appropriations Act identifying the amount of any budget authority or outlay excess in any spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 resulting from the enactment of the appropriations Act, estimating the aggregate amount of budget authority or outlay reductions in the spending category necessary to eliminate the excess, and specifying by account within the spending category the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this section.

"(b) SEQUESTER ORDER.—Based on the report the Director of the Office of Management and Budget issued pursuant to subsection (a), the President shall issue a sequester order (making reductions uniformly across each nonexempt account, and within each account, uniformly across each program, project, and activity) applicable to any spending category in excess of the allocation limit for such category 15 days after the enactment of the appropriation Act appropriating amounts in excess of allocation limits (or on November 15, if the date of enactment is after June 30 or before November 1 of the fiscal year for which such Act makes appropriations).

"(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Under this section, the Director of the Office of Management and Budget shall use the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any appropriations Act, the Director of the Office of Management and Budget shall submit to the Senate and the House of Representatives an estimate of the amount of change in budget authority, outlays, or receipts (if any) in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

(c) CONFORMING CHANGES.—The Balanced Budget and Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(3)(B), by inserting after "and 257," the following: "and after having made such reductions, if any, as may be required by sections 252A and 252B,";

(2) in section 251(a)(6)—

(A) by amending subparagraphs (C) and (D) to read as follows:

"(C) in the case of all accounts to which subparagraph (A) does not apply, assuming appropriations at the levels set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as adjusted under that section and section 251(a)(1)(F) of this Act), except assuming such lower levels in annual appropriations or continuing appropriations that have been enacted before the date of the report for the entire fiscal year that are enacted at a lower level, when appropriations have been enacted covering all subcommittees covered by the relevant category;

"(D) assuming that any sequester under section 252B that will be ordered on November 15 has been put into effect before the snapshot date;";

(3) in section 252(a)(1), by inserting after "251(a)(2)(B)," the following: "and after having ordered such reductions, if any, as may be required by sections 252A and 252B,";

(4) in section 252(a)(4), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Notwithstanding section 257(7), the net amount of deficit increase caused by laws enacted after November 15 of the previous calendar year and before October 1 (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)), after taking effect any sequestration during that period, shall be withheld in amounts equal to those that would be sequestered if the appropriate sequester orders under this section, section 252A, and section 252B were issued on October 1, pending the issuance of final order under those sections, and shall be permanently sequestered or reduced in accordance with those final orders upon the issuance of those final orders.";

(5) in section 252(a)(4)(B)(ii)—

(A) by striking "order under subsection (b)" and inserting "orders under subsection (b) and section 252B"; and

(B) by striking "2 percent" and inserting "4 percent"; and

(6) in section 256(d)(1)(B), by striking "2 percent" and inserting "4 percent".

SEC. 12054. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 12055. CONFORMING CHANGES.

(a) EXPIRATION.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by striking "1993" and inserting "1995".

(b) MARGIN.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(1)(B), by striking "$10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin";

(2) in section 251(a)(2), by striking $10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin"; and

(3) in section 257, by amending paragraph (10) to read as follows:

"(10) The term 'margin' means zero with respect to each of fiscal years 1991, 1992, and 1993, and $15,000,000,000 with respect to each of fiscal years 1994 and 1995.".

Subtitle B—Pay-As-You-Go

SEC. 12101. PAY-AS-YOU-GO PROVISIONS IN BUDGET RESOLUTIONS.

Section 301(b) of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (3), by striking "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) set forth pay-as-you-go procedures whereby—

"(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

"(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) may file with the Senate or the House of Representatives (as the case may be) appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

"(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

"(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) of this Act to carry out this paragraph; and".

SEC. 12102. PAY-AS-YOU-GO SEQUESTRATION.

(a) REPORTS.—Section 251(a)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "estimating the aggregate amount of required outlay reductions" and inserting "estimating the amount of required mandatory outlay reductions under section 252B and the aggregate amount of required outlay reductions".

(b) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by adding after section 252 the following new section:

"SEC. 252B. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation enacted after the date of enactment of this section that affects direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On November 15 of each fiscal year, there shall be a sequestration pursuant to subsection (d) to offset the amount of any net deficit increase in that fiscal year or the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). The Director of OMB shall calculate the amount of net deficit increase, if any, in each such fiscal year by adding—

"(1) all estimates of the effect of direct spending and receipts legislation on the deficit published under subsection (d) applicable to each such fiscal year; and

"(2) the estimated amount of deficit reduction applicable to each such fiscal year resulting from the prior year's sequestration, if any, as published in the Director of OMB's final sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) All reductions in automatic spending increases specified in section 257(1) shall be made.

"(B) If additional reductions in direct spending accounts are required to be made, the maximum reduction permissible under sections 256(c) (guaranteed student loans) and 256(f) (foster care and adoption assistance) shall be made.

"(C) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt mandatory account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required except that—

"(i) the medicare program specified in section 256(d) shall not be reduced by more than 4 percent; and

"(ii) the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(2) For purposes of this subsection, accounts shall be assumed to be at the level in the budget baseline determined under section 251(a)(6).

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any direct spending or receipts legislation, the Director of OMB shall submit to the Senate and the House of Representatives an estimate of the amount of change in the deficit in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

Subtitle C—Social Security Trust Fund

SEC. 12151. EXCLUSION OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—Section 3(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the second sentence.

(b) SOCIAL SECURITY ACT.—Section 710(a) of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning with fiscal year 1991.

SEC. 12152. SOCIAL SECURITY FIREWALL AND POINT OF ORDER.

(a) EXCLUSION FROM RECONCILIATION PROCESS.—Section 310(g) of the Congressional Budget Act of 1974 is amended by striking beginning with "that contains recommendations" and all that follows through the period and inserting: "that changes the old-age, survivors, and disability program established under title II of the Social Security Act or its financing without regard to whether such changes increase, decrease, or have no impact on the outlays of and income to such program.".

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraphs:

"(6) Social Security outlays, which for purposes of this title shall be composed of outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act; and

"(7) Social Security revenues, which for purposes of this title shall be composed of revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986.".

(d) POINT OF ORDER.—Section 301(i) is amended by adding at the end thereof the following new paragraph:

"(3) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the difference between Social Security revenues and Social Security outlays in any of fiscal years covered by the concurrent resolution.".

(e) COMMITTEE ALLOCATIONS.—

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "Social Security outlays," after "budget outlays,".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: "or provides for Social Security outlays in excess of the appropriate allocation of Social Security outlays under subsection (a)".

(3) Section 302(f)(2) of such Act is further amended by adding at the end thereof the following: "In applying this paragraph—

"(A) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(B) estimated Social Security outlays shall be deemed increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).".

(f) POINT OF ORDER UNDER SECTION 311.—Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "or Social Security outlays" after "total budget outlays";

(2) by inserting "(or Social Security revenues to be less than the appropriate level of Social Security revenues)" after "total revenues"; and

(3) by adding at the end thereof the following: "In applying this subsection—

"(A)(i) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

"(ii) estimated Social Security revenues shall be deemed to be increased to the extent that estimated Social Security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of Social Security outlays in the most recently agreed to concurrent resolution on the budget; and

"(B)(i) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(ii) estimated Social Security revenues shall be deemed to be reduced by the excess of estimated Social Security outlays (including Social Security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of Social Security outlays specified in the most recently adopted concurrent resolution on the budget.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate Committees shall report revised allocations pursuant to section 302(b)."

(g) LONG-RANGE ACTUARIAL ESTIMATES.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"ACTUARIAL EVALUATION OF LEGISLATION

"SEC. 234. (a)(1) The Secretary shall prepare and transmit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an actuarial analysis of the 75-year effect of legislation affecting the programs established by this title—

"(A) when it appears that such legislation is likely to be acted upon by the Congress, or

"(B) upon the request of a Member of the United States Senate.

"(2) The estimate required by paragraph (1) shall, at a minimum, display the change in long-range balance under each of the alternative sets of assumptions used in the most recent report of the Board of Trustees pursuant to section 201(c)(2). Each such estimate shall bear a certification by the Chief Actuary of the Social Security Administration as to whether or not the techniques and methodology used in its preparation are

generally accepted within the actuarial profession and whether or not the assumptions and resulting cost estimates are reasonable. Upon receipt of an actuarial analysis described in this subsection, the chairman of the Committee on Finance shall file such analysis with the Senate.

"(b)(1) It shall not be in order in the Senate to consider any measure or amendment that would modify the program established by this title (or the revenue provisions that provide funding for such program), unless—

(A) the Committee on Finance has submitted to the Senate the actuarial analysis described in subsection (a) with respect to such bill, resolution, amendment, or conference report, or

(B) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

"(2) A motion described in paragraph (1)(B) shall not be considered to be agreed to unless it receives the affirmative vote of three fifths of the membership of the Senate duly chosen and sworn, except that such a motion shall be considered approved upon an affirmative vote of a majority of Senators present and voting if—

"(A) an actuarial analysis was requested from the Secretary more than 72 hours before the motion is voted on (or 24 hours if such motion relates to an amendment in the first degree to a bill dealing with Social Security other than a Committee amendment or 1 hour if the motion relates to an amendment in the second degree to an amendment or a bill dealing with Social Security); and

"(B) such analysis has not been provided by the Secretary.".

Subtitle D—Multiyear Budgeting to Ensure Permanent Savings

SEC. 12201. MULTIYEAR BUDGETING.

(a) APPROPRIATE LEVELS.—Section 301(a) of the Congressional Budget Act of 1974 is amended in the matter before paragraph (1) by striking "planning levels for each of the two" and inserting "for each of the 4".

(b) DECLARATION OF PURPOSE.—Section 2(2) of that Act is amended by striking "each year".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(b)(3) of that Act is amended by striking "for such fiscal year" and inserting "for any one of the fiscal years covered by the concurrent resolution".

(2) Section 301(e) of that Act is amended—

(A) in the first sentence by striking "for each fiscal year"; and

(B) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year covered by the concurrent resolution";

(3) Paragraphs (1) and (2) of section 301(f) of that Act are amended by striking "for the fiscal year beginning after the date on which such Economic Report is received by the Congress" each place it appears.

(4) Section 301(i)(1)(A) of that Act is amended—

(A) by striking "for a fiscal year"; and

(B) by striking "for such fiscal year" the first place it appears and inserting "for the first fiscal year".

(d) COMMITTEE ALLOCATIONS.—

(1) Paragraphs (1) and (2) of section 302(a) of that Act are amended by inserting "for each fiscal year in such resolution" after "estimated allocation" each place it appears.

(2) Section 302(b) of that Act is amended—

(A) in paragraph (1) by inserting after "to it" the following: "for the first fiscal year"; and

(B) in paragraph (2)—

(i) by inserting after "(2)" the following: "for"; and

(ii) by striking all after "statement" through the period and inserting the following: ", for purposes of subsections (c) and (f), the allocation made pursuant to subsection (a) shall constitute the allocation pursuant to this subsection.".

(3) Section 302(c) of that Act is amended—

(A) by inserting after "for a fiscal year" each place it appears the following: "or fiscal years"; and

(B) by inserting after "for such fiscal year" each place it appears the following: "or fiscal years".

(4) Section 302(f)(1) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting the following: "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(5) Section 302(f)(2) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such outlays or authority" inserting the following: "the appropriate outlays and authority for the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years";

(e) SECTION 303 POINT OF ORDER.—Section 303(a) of that Act is amended in the matter following paragraph (5) by inserting after "budget for such fiscal year" the following: "(for committees covered by section 302(b)(2)) or budget for which such fiscal year is the first fiscal year covered (for committees covered by section 302(b)(1))".

(f) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Subsections (a)(3) and (b)(3) of section 305 of that Act are amended by striking "for a fiscal year".

(g) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—

(1)(A) Section 308(a)(1) of that Act is amended—

(i) in the matter preceding subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)";

(ii) in subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)"; and

(iii) in subparagraph (C) by inserting after "such fiscal year" the following: "(or fiscal years)".

(B) Section 308(a)(2) of that Act is amended by inserting after "fiscal year" the following: "(or fiscal years)".

(2) Section 308(b)(1) of that Act is amended—

(A) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a concurrent resolution on the budget"; and

(B) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate concurrent resolution".

(h) RECONCILIATION PROCESS.—Section 310(a) of that Act is amended—

(1) by inserting after "shall" in the matter preceding paragraph (1) the following: "(for at least 3 fiscal years)";

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting the following: "such fiscal years"; and

(3) by adding at the end thereof the following:

"To the extent that a concurrent resolution on the budget specifies and directs matters described in paragraphs (1), (2), or (4), the concurrent resolution shall specify and direct deficit reduction for the 5 years covered by the concurrent resolution in amounts equal to or greater than 5 times that specified and directed for the first year covered for each committee directed.".

(i) SECTION 311 POINT OF ORDER.—

(1) Section 311(a) of that Act is amended—

(A) by striking "for a fiscal year";

(B) by inserting "for the first fiscal year" after "set forth" the first place it appears;

(C) by striking "budget for such fiscal year" and inserting "budget covering such fiscal year";

(D) by inserting "for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years" after "set forth" the second place it appears; and

(E) by striking "deficit for such fiscal year" and inserting "deficit for the first fiscal year covered by the resolution".

(2) Section 311(b) of that Act is amended by inserting after "such fiscal year" each place it appears the following: "(or fiscal years)".

(j) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of that Act is amended by inserting after "for such fiscal year" the second place it appears the following: "(or fiscal years)".

SEC. 12202. PRESIDENT'S BUDGET TO ADDRESS OUTYEARS.

(a) PRESIDENTS' BUDGET TO ADDRESS OUTYEARS.—Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting after "such fiscal year" each time it appears "and the 4 fiscal years after that year";

(2) in paragraph (2) by inserting after "any fiscal year" the following: "(including the 4 fiscal years after the fiscal year for which the budget is submitted)"; and

(3) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) DETAIL OF PRESIDENTS' BUDGETS.—The second sentence of section 1104(b) of title 31, United States Code, is amended by striking "fiscal year 1950" and inserting "fiscal year 1990 submitted on January 9, 1989".

SEC. 12203. STRENGTHENING THE PROHIBITION OF SPENDING BEFORE BUDGETING.

Section 303(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the first sentence.

Subtitle E—Credit Reform

SEC. 12251. CREDIT REFORMS.

The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—CREDIT REFORM

"SHORT TITLE

"SEC. 1100. This title may be cited as the 'Federal Credit Reform Act of 1990'.

"PURPOSES

"SEC. 1101. The purposes of this title are to—

"(1) measure accurately the costs of Federal credit programs;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries;

"(4) improve the allocation of resources among credit programs and between credit and other spending programs;

"(5) provide for the coordinated accounting and review of Federal credit programs by the Congressional Budget Office and Office of Management and Budget;

"(6) enhance the ability of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives to analyze and review of Federal credit programs; and

"(7) modify the legislative and executive budgetary processes to carry out these purposes.

"DEFINITIONS

"SEC. 1102. For purposes of this title—

"(1) The term 'Federal agency' means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress that is owned in whole or in part by the United States. The term does not include the Board of Governors of the Federal Reserve System or the College Construction Loan Insurance Association.

"(2) The term 'direct loan' means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation. For the purpose of carrying out this title, direct loans may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(3) The term 'direct loan obligation' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to make a direct loan when specified conditions are fulfilled by the borrower.

"(4) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions. For the purposes of carrying out the provisions of this title, loan guarantees may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(5) The term 'loan guarantee commitment' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to guarantee a loan when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(6)(A) The term 'cost to the Government' means—

"(i) the estimated long-term net cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis; and

"(ii) the cost to the Government resulting from any change or modification in direct or guaranteed loan contract terms that results or will result in additional expenditures by the Government or loss of receipts to the Government.

"(B) In determining the amount of cost to the Government of a direct loan or loan guarantee, the estimator shall take into account—

"(i) any cash flows to or from the Government resulting from the terms and conditions of the direct loan obligation or guarantee commitment, including those resulting from—

"(I) direct outlays,

"(II) repayments (of principal or interest),

"(III) interest payments,

"(IV) interest receipts,

"(V) fees charged by (or on behalf of) the Government,

"(VI) the term to maturity,

"(VII) the payment schedule,

"(VIII) defaults in repayments,

"(IX) delays in repayments,

"(X) prepayments,

"(XI) forbearance and restructuring rights,

"(XII) grace periods,

"(XIII) penalties,

"(XIV) recoveries from the liquidation of collateral, and

"(XV) degree of guarantee;

"(ii) the likelihood (based on analysis of historical data) of deviations from the terms and conditions of the direct loan or loan guarantee, including those resulting from—

"(I) changes in the payment schedule,

"(II) defaults in repayments,

"(III) delays in repayments,

"(IV) prepayments,

"(V) forbearance and restructuring rights,

"(VI) grace periods,

"(VII) penalties,

"(VIII) recoveries from the liquidation of collateral, and

"(IX) degree of guarantee; and

"(iii) where historical data is not available or adequate, private market analogues, adjusted to estimate the cost to the Government.

"(C) The cost to the Government shall not include administrative costs.

"(7) The term 'subsidy account' means the budget account or accounts into which subsidies are appropriated to cover the cost to the Government of a direct loan or loan guarantee program.

"(8) The term 'financing account' means the budget account or accounts associated with each subsidy account that—

"(A) provides the non-subsidized funding to non-Government borrowers for Government direct loans obligated on or after October 1, 1991;

"(B) provides direct loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default and serves as a reserve for agency loan guarantee commitments made on or after October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from or on behalf of borrowers and subsidy payments from subsidy accounts for direct loans obligated or loan guarantees committed on or after October 1, 1991.

If an appropriated account includes both direct loans and loan guarantees, the affected agency shall maintain separate financing accounts for each.

"(9) The term 'liquidating account' means the budget account or accounts that—

"(A) provides the funding for direct loans obligated prior to October 1, 1991;

"(B) disburses loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default for direct loans and guaranteed loans obligated prior to October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from on or on behalf of borrowers for all direct loans or loan guarantees obligated prior to October 1, 1991.

"(10) The term 'Director' means the Director of the Office of Management and Budget.

"OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW

"SEC. 1103. (a) IN GENERAL.—The Director shall be responsible for coordinating estimates by Federal agencies required by this title.

"(b) ESTIMATES OF COST TO THE GOVERNMENT BY THE DIRECTOR.—With regard to direct loans and loan guarantees, the Director shall—

"(1) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for each new direct loan and loan guarantee or for groups of similar new direct loans and loan guarantees, taking into account the factors specified in section 1102(6);

"(2) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for changes or modification in the provisions of existing direct loan and loan guarantee agreements that result in increased cost to the Government;

"(3) if estimates of the cost to the Government are made by the Director, furnish the appropriate Federal agency with the estimates in a timely fashion;

"(4) require timely uniform reporting from Federal agencies on the actual long-term cost to the Government of direct loans and loan guarantees, calculated on a basis prescribed by the Director and consistent with this title, and on loan performance and borrower characteristics;

"(5) in the case of a program for which historical data is inadequate to determine the cost to the Government, oversee the development and implementation of systems that will make the collection and maintenance of credit data adequate in the future;

"(6) monitor due diligence debt collection efforts;

"(7) assess Federal agency performance; and

"(8) otherwise study and undertake improvements in Federal agency credit management.

"(c) DEVELOPMENT OF ESTIMATES.—

"(1) IN GENERAL.—In developing estimate criteria to be used by Federal agencies, the Director shall, in cooperation with the Director of Congressional Budget Office—

"(A) coordinate the development of accurate data on historical performance of loans and guarantees; and

"(B) review historical budget data and issue guidelines for the agencies to follow to develop the best possible broad estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"(2) CONSULTATION WITH CONGRESS.—The Director shall also consult with the chairmen and ranking members of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives in developing criteria under paragraph (1).

"(d) REVISION OF CRITERIA.—Any change by the Director in the criteria for estimating developed pursuant to subsection (c) may be made only after consultation with the Director of the Congressional Budget Office, and the chairmen and ranking members of the Committees on the Budget and Appropriations of the Senate and the House of Representatives.

"(e) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall analyze differences in long-term administrative costs for credit programs versus grant programs and, 6 months after the date of enactment of this title and when appropriate thereafter, propose changes to Congress for incorporating administrative costs in the credit reform accounting process.

"DIRECT LOAN PROGRAMS

"SEC. 1104. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency shall include in its budget proposal and submission to Congress—

"(1) the planned level of new direct loan obligations; and

"(2) the estimated cost to the Government associated with the proposed direct loan obligations.

"(b) DIRECT LOAN OBLIGATIONS.—On or after October 1, 1991, a Federal agency shall not enter into a direct loan obligation unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government; or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF DIRECT LOAN OBLIGATION.—

"(1) ESTIMATE OF COST.—At the time a direct loan obligation is incurred, the Federal agency shall obtain an estimate of the cost to the Government of the loan from the Director or, at the discretion of the Director, shall make such an estimate based upon guidelines established by the Director.

"(2) BUDGET TREATMENT.—For the purposes of section 1501 of title 31, United States Code—

"(A) the amount of an estimate made under paragraph (1) shall constitute an obligation of the subsidy account to pay to the financing account; and

"(B) the face value of the direct loan shall constitute an obligation of the financing account.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a direct loan as determined in subsection (c) shall be paid from the subsidy account into the financing account as the loan is disbursed.

"(e) MODIFICATION.—No direct loan agreement may be modified in a manner that increases the cost to the Government (except modifications within the terms of the loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or, in the case of entitlement accounts, charged against the 302(a) and 302(b) allocations of the committee making the modification. In calculating the costs of altering a direct loan the calculation shall include the current estimates of the direct loan's present value.

"(f) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan.

"LOAN GUARANTEE PROGRAMS

"SEC. 1105. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency authorized to make loan guarantee commitments shall include in its budget proposal and submission to Congress—

"(1) the level of new loan guarantee commitments; and

"(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

"(b) LOAN GUARANTEE.—On or after October 1, 1991, a Federal agency shall not guarantee a loan unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government, or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF LOAN GUARANTEE.—

"(1) IN GENERAL.—At the time a loan guarantee commitment is made, the Federal agency shall obtain an estimate of the cost to the Government of the loan guarantee from the Director or, at the discretion of the Director, shall make an estimate of the cost to the Government based upon guidelines provided by the Director.

"(2) OBLIGATION.—The amount of an estimate made under paragraph (1) shall constitute an obligation of the Federal agency for the purposes of section 1501 of title 31, United States Code.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a loan guarantee determined under subsection (c) shall be paid from the subsidy account into the financing account at the time the underlying guaranteed loan is disbursed.

"(e) MODIFICATION.—No loan guarantee agreement may be modified in a manner that would increase the cost to the Government (except modifications within the terms of a loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or is charged against the 302(a) and 302(b) allocations of the committee making the modifications. In calculating the costs of modifying loan guarantee agreements, the calculation shall include the current estimates of the loan guarantee's present value.

"(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of reinsurance for a Federal guarantee from private insurers.

"(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, a loan guarantee.

"AGENCY RESPONSIBILITIES

"SEC. 1106. The head of each Federal agency authorized to make or guarantee loans covered by this title shall—

"(1) provide the Director in a timely fashion with information about the Federal agency's direct loan or loan guarantee programs sufficient to enable the Director to calculate the estimated cost to the Government, or shall, as required by the Director, estimate the cost to the Government in accordance with the Director's guidance;

"(2) request annual appropriations, or limitations on funds otherwise available, for the subsidies attributable to that Federal agency's direct loan or loan guarantee programs in each fiscal year;

"(3) carry out the Federal agency's direct loan or loan guarantee programs within the lesser of—

"(A) applicable appropriations Act limitations on direct loan obligations or loan guarantee commitments; or

"(B) annual appropriations or funds otherwise available to cover cost to the Government for the program; and

"(4) maintain reserves in a financing account to cover loan guarantee defaults, which reserves in the financing account shall be treated as uninvested funds.

"BUDGETARY TREATMENT

"SEC. 1107. (a) DIRECT LOAN COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any direct loan made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the subsidy account. The cost to the Government shall be included in the budget function of the direct loan program.

"(b) LOAN GUARANTEE COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any loan guarantee commitment made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the account charged with the subsidy payment. The cost to the Government shall be included in the budget function of the guaranteed loan program.

"(c) CREDIT FINANCING ACTIVITIES.—

"(1) For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, financing requirements of Federal credit programs in excess of costs to the Government paid by a Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantees made or obligated on or after October 1, 1991, shall also be treated as obligations of the financing accounts. Such financing transactions shall be recorded in a budget function entitled 'credit financing activities'. The Antideficiency Act shall apply to the financing accounts.

"(2) Amounts recorded in the budget function entitled 'credit financing activities' pursuant to this subsection shall not be included—

"(A) for purposes of determining, in accordance with sections 301(i) and 311(a) of this Act, whether the maximum deficit amount for a fiscal year has been exceeded;

"(B) for purposes of other points of order under section 311 of this Act;

"(C) for purposes of reconciliation under section 310 of this Act; or

"(D) for purposes of allocations and points of order under section 302 of this Act.

"(3) Transactions in the financing account shall be treated as a means of financing of the Government.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1108. (a) DIRECT LOAN OBLIGATIONS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make obligations for direct loans, such sums as may be necessary to pay the cost to the Government associated with proposed direct loan obligations and the costs of administering direct loans.

"(b) LOAN GUARANTEE COMMITMENTS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost to the Government associated with proposed loan guarantee commitments and the costs of administering loan guarantees.

"(c) TREASURY NOTES FINANCING.—If at any time the monies available in its financing account are insufficient to enable the head of the Federal agency to discharge its responsibilities under this title, the head of a Federal agency shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and containing such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the head of such agency from monies otherwise available to its financing account or from appropriations made pursuant to subsection (d). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date of issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations.

"(d) LIQUIDATING OBLIGATIONS.—

"(1) If funds are insufficient to liquidate obligations of the financing account incurred under subsection (c), for the purposes

of titles III and IV of this Act, the Director or the Federal agency as designated by the Director shall estimate the level of funds needed to meet those obligations. If at any time it is determined that funds are insufficient to repay those obligations, under subsection (c), there are authorized to be appropriated such sums as are necessary to repay those obligations.

"(2) To the extent that the resources of the financing account exceed those needed to liquidate obligations of the account or to maintain actuarially determined reserve requirements, the excess funds shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time, but at least once a year.

"(3) The Director shall include detailed descriptions of the financial condition of the financing accounts in the President's annual budget submission under section 1105 of title 31 of the United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR SALARIES AND EXPENSES.—There are authorized to be appropriated to the Director such sums as may be necessary for the salaries and expenses incurred to carry out the responsibilities of the Director under this title.

"TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS

"SEC. 1109. (a) IN GENERAL.—

"(1) The provisions of this title shall not apply to the credit and insurance activities of the credit activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, Insurance Development Fund, Crop Insurance, or to the credit or other activities of the Tennessee Valley Authority.

"(2) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

"(3) For the purposes of paragraph (2) the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

"(b) ELIGIBILITY AND ASSISTANCE.—Nothing in this section shall be construed to change the responsibility of the entities that administer the programs described in subsection (a) to determine the terms and conditions of eligibility for, or the amount of assistance provided by those entities.

"EFFECT ON OTHER LAWS

"SEC. 1110. (a) FEDERAL AGENCY AUTHORITY.—Nothing in this title shall be construed as limiting the authority of any Federal agency to enter into agreements to make or to guarantee loans under statutes that were in effect prior to the date of enactment of this title or that may be enacted subsequently. All such agreements shall be contingent upon meeting the requirements of this title.

"(b) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(c) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

"IMPLEMENTATION FOR FISCAL YEAR 1992

"SEC. 1111. (a) IN GENERAL.—Beginning with the President's budget submission to Congress for fiscal year 1992, the President shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(6), of all Federal direct loan and loan guarantee authority by program and by account.

"(b) BUDGET COMMITTEES.—At the time of the President's budget submission to Congress, the Director shall provide the Committees on the Budget of both the Senate and the House of Representatives and the Congressional Budget Office with a document explaining the methodology used in development of the Director's cost to the Government estimates for direct loan and loan guarantee programs. Upon request by the Committees on the Budget of both the Senate or the House of Representatives or the Congressional Budget Office, the Director shall provide additional documentation, as required, regarding the cost to the Government estimates included in the Budget Appendix.

"(c) CONGRESSIONAL BUDGET OFFICE.—

"(1) IN GENERAL.—Beginning on January 1, 1991, the Congressional Budget Office shall include a cost to the Government estimate of direct loan or loan guarantee authority provided for in all reported bills.

"(2) EXISTING RESPONSIBILITY.—Paragraph (1) does not eliminate or modify any responsibility of the Congressional Budget Office to make cost estimates under the law in effect prior to the effective date of this title.".

SEC. 12252. EFFECT ON CONGRESSIONAL BUDGET ACT AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—(1) Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The term includes the cost to the Government for direct loan and loan guarantee programs, as those terms are defined by title XI".

(2) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"(11) GOVERNMENT-SPONSORED ENTERPRISE.—The term 'government-sponsored enterprise' means a corporate entity created by a law of the United States that—

"(A)(i) is a Federally chartered organization as provided in statute;

"(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

"(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

"(iv) is a financial institution with power to—

"(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

"(II) raise funds by borrowing or to guarantee the debt of others in unlimited amounts; and

"(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax, to levy compulsory fees, regardless of whether such fees are to finance goods or services, or to regulate interstate commerce);

"(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

"(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.".

(b) POINT OF ORDER.—Section 402 of the Congressional Budget Act of 1974 is amended—

(1) by redesignating subsection (b) as (c);

(2) in subsection (a), by striking "(b)(1)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) POINT OF ORDER.—It shall not be in order in either the Senate or the House of Representatives to consider any appropriation bill or joint resolution providing continuing appropriations, or authorizing legislation creating or modifying credit programs that are not subject to appropriation of credit authority, or any amendment thereto, or any conference report thereon, or any motion in relation thereto, that provides new credit authority that does not also provide an appropriation for the cost to the Government of such new credit authority as required by title XI.".

(c) POINT OF ORDER FOR FISCAL YEAR 1991.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after "new budget authority" the following: "or new credit authority". The amendment made by this subsection shall take effect on January 1, 1991.

(d) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992.—(1) Section 302 of the Congressional Budget Act is amended—

(A) in subsection (a)(1)—

(i) by striking "total entitlement authority, and total credit authority" and inserting "and total entitlement authority";

(ii) by striking "such entitlement authority, or such credit authority" and inserting "or such entitlement authority"; and

(iii) by striking "entitlement authority, and credit authority" and inserting "and entitlement authority";

(B) in subsection (a)(2), by striking "total budget outlays, total new budget authority and new credit authority" and inserting "total budget outlays and total new budget authority";

(C) in subsection (b)(1)(A), by striking "budget outlays, new budget authority, and new credit authority" and inserting "budget outlays and new budget authority";

(D) in subsection (c)—

(i) in paragraph (1), by inserting "or" at the end thereof; and

(ii) by striking "or (3) new credit authority for a fiscal year;"; and

(E) in subsection (f)(1)—

(i) by striking "year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year," and inserting "year or new entitlement authority effective during such fiscal year,"; and

(ii) by striking "authority, new entitlement authority, or new credit authority" and inserting "authority or new entitlement authority".

(2) The amendments made by this subsection shall take effect for fiscal years beginning after September 30, 1991.

(e) BALANCED BUDGET ACT.—Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph:

"(3) The financing account or accounts (as defined by section 1102(8)) and the activities of those accounts shall be exempt from reduction under any order issued pur-

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 amounts.".

SEC. 12253. TABLE OF CONTENTS.

The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following:

"TITLE XI—CREDIT REFORM

"Sec. 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 1107. Budgetary treatment.
"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. 12254. GOVERNMENT-SPONSORED ENTERPRISES.

(a) TREASURY REPORT.—

(1) On or before April 30, 1991, the Secretary of the Treasury shall submit to the Senate and the House of Representatives a report—

(A) making an objective assessment of the financial safety and soundness of the Government-sponsored enterprises;

(B) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

(C) assessing the risk of financial exposure to the Federal Government posed by Government sponsored enterprises.

(2)(A) Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(B) In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(C)(i) The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(ii) The Department of Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency.

(iii) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(I) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under clause (i); and

(II) he discloses the material in any manner other than—

(aa) to an officer or employee of the Department of Treasury; or

(bb) pursuant to the exception set forth in such section 1906.

(b) CONGRESSIONAL BUDGET OFFICE REPORT.—

(1) On or before April 30, 1991, the Director of the Congressional Budget Office shall submit to the Senate and the House of Representatives a report—

(A) giving that Office's perspective on—

(i) the types of risk that each Government-sponsored enterprise assumes;

(ii) ways in which the Congress can improve its understanding of these risks; and

(iii) the risks to the budget posed by Government-sponsored enterprises;

(B) evaluating the adequacy of current Government-sponsored enterprise supervision and regulation with respect to risk management; and

(C) presenting alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to Government-sponsored-enterprise-supported beneficiaries.

(2)(A) The Director of Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) The Congressional Budget Office shall be exempt from section 603 of title 2, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under subparagraph (A).

(c) STUDY AND LEGISLATION.—It is the sense of Congress that the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives shall—

(1) study the administration's Government sponsored enterprise proposals, which include—

(A) requiring triple-A ratings for Government-sponsored enterprises;

(B) establishing the Department of the Treasury as a separate regulator of Government-sponsored enterprises for safety and soundness; and

(C) imposing regulatory sanctions on Government-sponsored enterprises that fail to achieve a triple-A rating within 5 years;

(2) consult with the administration, the Government-sponsored enterprises, and the Congressional Budget Office regarding the administration's proposals; and

(3) report by September 15, 1991, to the Senate or the House of Representatives, as the case may be, as appropriate, legislation to—

(A) ensure the financial soundness of Government-sponsored enterprises; and

(B) minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

(d) LEGISLATIVE CONSIDERATION.—It is the sense of Congress that if the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives fail to report the legislation required by subsection (c) by September 15, 1991, then the Leadership of the Senate and the House of Representatives shall provide for consideration of and a vote on or in relation to legislation improving the financial safety and soundness of Government-sponsored enterprises before the end of the First Session of the 102nd Congress.

Subtitle F—Budget Timetable

SEC. 12301. BUDGET TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
January 27	Congressional Budget Office submits its baseline report to Budget Committees and issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.
February 1	President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.
March 1	Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual Appropriations bills may be considered in the House.
September 30	Congress completes action on appropriations legislation and completes action on reconciliation legislation in odd-numbered years.
October 1	Fiscal year begins and any initial order becomes effective.
November 10	Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.
November 15	Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).
November 30	President transmits to the Congress a detailed message regarding the final order.
December 15	Comptroller General issues compliance report.

"(b) IN YEARS A NEW PRESIDENT TAKES OFFICE.—In years in which a new President (who had not been President on January 19) takes office on January 20, the timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
January 27	Congressional Budget Office submits its baseline report to Budget Committees.
March 10	Congressional Budget Office issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.

"On or before:	Action to be completed:
March 15	President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.
April 15	Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.
May 1	Senate Budget Committee reports concurrent resolution on the budget.
May 15	Congress completes action on concurrent resolution on the budget.
June 1	Annual Appropriations bills may be considered in the House.
September 30	Congress completes action on appropriations legislation and completes action on reconciliation legislation.
October 1	Fiscal year begins and any initial order becomes effective.
November 10	Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.
November 15	Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).
November 30	President transmits to Congress a detailed message regarding the final order.
December 15	Comptroller General issues compliance report.".

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports

SEC. 12351. EARLY INITIAL GRAMM-RUDMAN-HOLLINGS REPORTS.

(a) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "as of August 15 of the calendar year in which such fiscal year begins";

(2) in section 251(a)(2)(A), by striking "August 20" and inserting "January 27";

(3) in section 251(a)(2)(B), by striking "August 25" and inserting "February 1";

(4) in section 251(a)(2)(C), by striking clauses (iii) and (iv);

(5) in section 251(a)(3)(A)(ii), by striking "paragraph" and inserting "part";

(6) in section 251(a)(3)(A)(ii)(II), by striking "in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c),";

(7) in section 251(c)(1)(A), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to subsection (a) for";

(8) in section 252(a)(1), by striking "August 25" and inserting "February 1";

(9) in section 252(a)(5), by striking "Not later than the 15th day beginning after the President issues an" and inserting "Along with any"; and

(10) in section 252(b)(2), by striking "August 15 of" and inscrting "the snapshot date for the Director's report pursuant to section 251(a) for".

(b) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 202(f)(1), by striking "February 15" and inserting "January 27";

(2) in section 202(f)(1), by striking "and any changes in such levels based on proposals in the budget request submitted by the President for such fiscal year";

(3) in section 202(f), by adding at the end thereof the following new paragraph:

"(4) On or before March 1 of each year (or April 15 of a year to which section 300(b) applies), the Director shall submit to the Committees on the Budget of the Senate and the House of Representatives a report setting forth the Director's analysis of the proposals in the budget request submitted by the President for the fiscal year beginning October 1 of that year."; and

(4) in section 301(d), by striking "February 25" and inserting "March 1".

(c) TITLE 31 OF THE UNITED STATES CODE.—Section 1105(a) of title 31, United States Code, is amended by striking "the first Monday after January 3" and inserting "February 1".

SEC. 12352. PRESIDENTS' BUDGET REQUEST TO USE GRAMM-RUDMAN-HOLLINGS RULES.

Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting before the period "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act";

(2) in paragraph (2) by inserting before the comma "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act"; and

(3) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

Subtitle H—Strengthening the Byrd Rule on Extraneous Matter in Reconciliation

SEC. 12401. STRENGTHENING THE BYRD RULE.

(a) STRENGTHENING THE BYRD RULE.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)—

(A) by inserting after "(a)" the following: "IN GENERAL.—";

(B) by inserting after "1974" the following: "(whether that bill or resolution originated in the Senate or the House) or section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in subsection (d) by inserting after "(d)" the following: "EXTRANEOUS PROVISIONS.—";

(3) in subsection (d)(1)(A) by inserting before the semicolon "(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)";

(4) in subsection (d)(1)(D) by striking "and" after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end thereof and inserting "; and";

(6) in subsection (d)(1) by adding at the end thereof the following new subparagraph:

"(F) a provision shall be considered extraneous if it violates section 310(f).";

(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated"; and

(8) by adding at the end thereof the following new subsections:

"(e) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(f) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(g) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) TRANSFER OF BYRD RULE.—(1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974, and designated as section 313 of that Act.

(2) Section 313 of the Congressional Budget Control Act of 1974 is amended by—

(A) adding at the beginning thereof the following center heading:

"EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION";

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

(4) Section 313 of the Congressional Budget Act of 1974 is amended—

(A) in subsections (a), (b)(1)(A), and (c), by striking "of the Congressional Budget Act of 1974";

(B) in subsection (a), by striking "(d)" and inserting "(b)";

(C) in subsection (b)(2)(C), by adding "or" at the end thereof;

(D) in subsection (c), by striking "when" and inserting "When";

(E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and

(F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 (as added by section 12606(c)) the following new item:

"Sec. 313. Extraneous matter in reconciliation legislation.".

Subtitle I—Budget Submissions in New Administrations

SEC. 12451. REQUIREMENT FOR NEW PRESIDENT'S BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by striking "February 5 in 1986" and inserting "March 15 in any year in which a new President takes office on January 20, not having been President on January 19".

SEC. 12452. DEADLINES IN YEARS WHEN A NEW PRESIDENT TAKES OFFICE.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(a), by inserting after "April 15 of each year" the following: "(or May 15 in a year to which section 300(b) applies";

(2) in section 301(d), by striking "February 25 of each year" and inserting "March 1 of each year (or April 15 in a year to which section 300(b) applies"; and

(3) in section 303(b), by inserting after "May 15 of any calendar year" the following: "(or June 1 in a year to which section 300(b) applies".

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(2)(A), by striking "October 15, 1987, in the case of fiscal year 1988" and inserting "March 10 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies";

(2) in section 251(a)(2)(B), by striking "October 20, 1987, in the case of fiscal year 1988" and inserting "March 15 in years when section 300(b) of the Congressional Budget Act of 1974 is in effect"; and

(3) in section 252(a)(1), by striking "October 20, 1987, in the case of the fiscal year 1988" and inserting "March 15 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies".

Subtitle J—Repeal of Superseded Deadlines

SEC. 12501. SUPERSEDED DEADLINES AND CONFORMING CHANGES.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended—

(1) in section 305, by—

(A) striking subsection (d); and

(B) redesignating subsection (e) as subsection (d);

(2) by repealing section 307; and

(3) in section 310, by—

(A) striking subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the item for section 307 and inserting the following:

"Sec. 307. Repealed.".

Subtitle K—Standardization of Points of Order

SEC. 12551. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 311(a)—

(A) in the matter before paragraph (1), 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

(B) by striking ", if—" and paragraphs (1), (2), and (3) and inserting "that";

(2)(A) in section 302(c), by striking "bill or resolution, or amendment thereto" and inserting "bill, resolution, amendment, motion, or conference report";

(B) in section 302(f)(2), by striking "bill or resolution (including a conference report thereon), or any amendment to a bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(C) in section 303(a), by striking "bill or resolution (or amendment thereto)" and inserting "bill, resolution, amendment, motion, or conference report";

(D) in section 306, by striking "bill or resolution, and no amendment to any bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(E) in section 311(a), by—

(i) striking "bill, resolution, or amendment" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any conference report on any such bill or resolution";

(F) in section 401(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)";

(G) in section 401(b)(1), by—

(i) striking "bill or resolution" and inserting "bill, resolution, resolution of ratification, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)"; and

(H) in section 402(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any amendment";

(3) in section 302(f)(2), by striking "outlays or new budget authority" and inserting "outlays, new budget authority, or new spending authority (as defined in section 401(c)(2))";

(4) in section 303(a), by—

(A) amending paragraph (4) to read as follows:

"(4) new spending authority (as defined in section 401(c)(2)) for a fiscal year;";

(B) striking the comma at the end of paragraph (5) and inserting "; or"; and

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

"(6) outlays,";

(5) in section 401(a), by striking "(A) or (B)" both times it appears and inserting "(A), (B), or (D)";

(6) in section 401(c), by striking the last sentence;

(7) in section 401(d), by striking "Subsections (a) and" and inserting "Subsection"; and

(8) in section 402(b), by inserting after "including" the following: "(but not limited to)".

(b) POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—

(1) Part A of title III of the Congressional Budget Act of 1974 as amended by section 12401(b), is amended by adding at the end thereof the following new section:

"EFFECTS OF POINTS OF ORDER

"SEC. 314. POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order against an amendment between the Houses. If a point of order under this Act is raised in one House against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if that House had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(2) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 313 (as added by section 12401(b)(5)) the following new item:

"Sec. 314. Effect of points of order.".

(c) ADJUSTMENT OF ALLOCATIONS AND AGGREGATES TO REFLECT CHANGES PURSUANT TO SECTION 310(c).—Section 310(c) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "(1)" before "Any committee";

(2) redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(4) inserting at the end thereof the following new paragraph:

"(2)(A) Upon the reporting to the Committee on the Budget of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget may file with the reporting committee's House appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(B) Upon the submission to the Senate or the House of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairmen of the Committees on the Budget may file with their respective Houses appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

"(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting Committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.".

(d) RECONCILIATION INSTRUCTIONS.—Section 310(a)(4) of the Congressional Budget Act of 1974 is amended by inserting after "(3)" the following: "(including a direction to achieve deficit reduction)".

SEC. 12552. DEFINITIONS.

(a) BUDGET AUTHORITY.—Section 3(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(12) BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal

law to incur financial obligations, including the following:

"(i) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend the proceeds of offsetting receipts or offsetting collections from the public;

"(ii) 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;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(iv) 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) ESTIMATES OF BUDGET AUTHORITY.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimate), and includes contingent budget 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—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a legislated change in the estimated level of new budget authority provided in indefinite amounts by existing law.".

(b) ENTITLEMENT AUTHORITY.—Section 3(9) of the Congressional Budget Act of 1974 is amended to read as follows:

"(19) ENTITLEMENT AUTHORITY.—

"(A) 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 of budget authority that may be available to make those payments, including any entitlement authority estimated to exist.

"(B) Except as provided in subparagraph (C), if a provision of law that requires the Government to make payments is limited by any other provision of law to the amount available budget authority (by providing pro rata reductions in payments, changes in eligibility, changes in employment, or through other means), then entitlement authority does not exist.

"(C) For purposes of paragraph (B), subchapter II of chapter 13 of title 31 of the United States Code shall not be considered a provision of law that limits entitlement authority to the amount of available budget authority.

"(D) The term 'new entitlement authority' means any legislation creating entitlement authority (or altering existing entitlement authority that was enacted before the date of adoption of the most recently agreed-to budget resolution, and includes legislation that has the effect of changing the estimated level of entitlement authority created in indefinite amounts of existing law.".

(c) GERMANENESS.—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 germane unless it complies with the precedents of the Senate, deals with the same subject matter as the matter to which it is germane, and is within the same committee jurisdiction as the matter to which it is germane".

Subtitle L—Codification of Budget Process Provisions

SEC. 12601. 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 "his fitness to perform his duties" and inserting "fitness to perform the duties of the office of Director";

(3) in section 201(a)(3)—

(A) by striking "his successor" in both places it appears and inserting "a successor";

(B) by striking "him" and inserting "that Deputy Director";

(4) in section 201(d)—

(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(b)(2), by striking "his" and inserting "the minority leader's";

(7) in section 305(c)(3), by striking "his" both times it appears and inserting "the minority leader's";

(8) in section 305(c)(4), by striking "his" and inserting "the minority leader's";

(9) in section 1012(a)(1), by striking "he" and inserting "the President";

(10) in section 1014(b)(2)(B), by striking "his" and inserting "the Comptroller General's";

(11) in section 1014(c), by striking "him" and inserting "the Comptroller General";

(12) in section 1014(e)(1)(A), by striking "he" 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 1017(d)(2), by striking "his" 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"; and

(17) in section 1017(d)(7), by striking "his" and inserting "the minority leader's".

(b) OMB REPORTS.—Section 251(a)(2)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "his estimate" and inserting "the estimate of the Director of OMB".

(c) MILITARY PERSONNEL FLEXIBILITY.—Section 251(d)(3)(C) of such Act is amended by striking "he" and inserting "the President".

(d) PROCEDURES IN THE EVENT OF RECESSION.—Section 254(a)(4)(C)(iii) of such Act is amended by striking "his" and inserting "the minority leader's".

SEC. 12602. REPEAL OF OBSOLETE PROVISIONS.

(a) CONGRESSIONAL BUDGET ACT OF 1974.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(i)(2), by

(A) striking "(A)";

(B) striking subparagraph (B); and

(C) striking "(C) For purposes of the application of subparagraph (B), the" and inserting "(3) The";

(2) in section 311(a), by striking "that—" and subparagraph (A) and (B) through "fiscal year 1989;" and inserting "that exceeds the maximum deficit amount for such fiscal year under section 3(7),"; and

(3) in section 401(d), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "(or as of October 10, 1987, in the case of fiscal year 1988)";

(2) in section 251(a)(2)(B)(iii), by striking "except fiscal year 1988)";

(3) in section 251(a)(2)(B)(iv), by striking "(except fiscal year 1988)";

(4) in section 251(a)(2)(B)(iv), by striking the second sentence;

(5) in section 251(a)(2)(C)—

(A) by striking clause (iii);

(B) in clause (iv) by striking "For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year" and inserting "To the extent that the report submitted by the President for a fiscal year"; and

(C) by redesignating clause (iv) as clause (iii);

(6) in section 251(a)(3)(A)(i) by—

(A) striking "be—" and subclauses (I) and (II); and

(B) striking "(III) for fiscal year 1990, 1991, 1992, or 1993," and inserting "be";

(7) in section 251(a)(3)(A)(i), by striking "The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989.";

(8) in section 251(a)(3)(A)(ii), by striking "means—(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), 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";

(9) in section 251(a)(6)(D)(i), by—

(A) striking clause (I);

(B) striking "(II) in the case of fiscal year 1989 and subsequent fiscal years—"; and

(C) redesignating divisions (aa) and (bb) as subclauses (I) and (II), respectively;

(10) in section 251(c)(1), by striking "November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years," and inserting "November 10,";

(11) in section 251(c)(1)(A), by striking "(or after October 10, 1987, in the case of the fiscal year 1988),";

(12) in section 251(c)(2), by striking "November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years," and inserting "November 15,";

(13) in section 251(d)(3)(C), by striking "October 10, 1987, in the case of fiscal year 1988, or";

(14) in section 251(d)(3)(C), by striking "in the case of any subsequent fiscal year,";

(15) in section 252(a)(6), by—

(A) striking subparagraph (A); and

(B) striking "(B) FISCAL YEARS 1989–1993.—";

(16) in section 252(a)(6), by striking "the fiscal year 1989 or any subsequent fiscal year" and inserting "any fiscal year";

(17) in section 252(a)(6)(F), by striking "and paid land diversion payments";

(18) in section 252(b)(1), by striking "(or on November 20, 1987, in the case of fiscal year 1988)";

(19) in section 252(b)(2), by striking "(or October 10, 1987, in the case of fiscal year 1988)";

(20) in section 252(c)(2)(D), by striking "November 25, 1987, for fiscal year 1988 or,

in the case of any subsequent fiscal year, before";

(21) in section 253, by striking "(or 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 based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;".

SEC. 12603. STANDARDIZATION OF ADDITIONAL DEFICIT CONTROL PROVISIONS.

(a) Section 904 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, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), and 258(b)(3)(C)(ii) 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

(2) in subsection (d) by inserting at the end thereof the following: "An affirmative vote of three-fifths 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, 904(c), and 904(d). An affirmative vote of three-fifths 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 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), 258(b)(3)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 275(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 section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act."

SEC. 12604. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g).

(b) TRANSFER.—The text of section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section 201 of the Congressional Budget Act of 1974 and is designated as subsection (f)(1).

(c) CONFORMING CHANGES.—Section 201(f) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(2) inserting "REVENUE ESTIMATES.—(1)" before the first sentence.

SEC. 12605. CODIFICATION 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, receipt, or 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.".

SEC. 12606. TECHNICAL REVISIONS OF GRAMM-RUDMAN-HOLLINGS.

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

(1) in section 251(a)(6)(B)—

(A) by striking "and" the last time it appears; and

(B) 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";

(2) in section 251(a)(6)(J), by striking "and" at the end thereof;

(3) in section 251(a)(6)(K) by adding "and" at the end thereof; and

(4) in section 251(a)(6), by inserting after subparagraph (K) the following new subparagraph:

"(L) 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 enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of—

"(i) amounts previously sequestered, and

"(ii) savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for 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(11) by inserting at the end thereof the following new paragraph:

"(V) the accounts (or portions of accounts) set forth on the list entitled 'Accounts Which Are Mandatory or Which Have Discretionary and Mandatory Splits and Are Scored to the Appropriations Committee' that is attached to the 'Scorekeeping Guidelines for the Bipartisan Budget Agreement of April 14, 1989';

(7) in section 251(d)(3)(C) by striking "Congress" and inserting "Senate and the House of Representatives";

(8) in section 252(c)(2)—

(A) in subparagraph (F)(ii) by striking "insofar as they relate to major function 050 (national defense)." and inserting ". For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense)."; and

(B) in subparagraph (F)(iii) by—

(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 "is not debatable. 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) by—

(i) striking "insofar as they relate to major function 050 (national defense)";

(ii) inserting after "in order in the Senate." the following: "For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense)."; and

(iii) striking "the majority leader and the minority leader (or their designees)." and inserting ", and controlled by, the mover and the majority leader (or their designees), 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.";

(D) in subparagraph (H)(iii) by inserting after "previously amended" the following: ", so long as the amendment makes or maintains mathematical consistency";

(E) in subparagraph (I), by inserting "pending" after "House, and the disposition of any";

(F) in subparagraph (L)(ii)(II)(bb)—

(i) by striking "it" and inserting "the Senate joint resolution";

(ii) by inserting "House" after "passed the";

(9) in section 254(a)—

(A) in paragraph (1)(B), by striking "the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof)" and inserting "the most recent of advance, preliminary, and final reports of the Department of Commerce of actual real economic growth";

(B) in paragraph (2)(A), in paragraph (1) of the quoted material, by striking "and 311(a)" and inserting "310(d), 311(a), 313(b)(1)(B), and 313(b)(1)(E)";

(C) in paragraph (2)(A), in paragraph (2) of the quoted matter, by striking "and 311(a) (except insofar as it relates to section 3(7))" and inserting "310(d), 311(a) (except insofar as it relates to section 3(7)), 313(b)(1)(B), and 313(b)(1)(E)";

(D) in paragraph (2)(A), in the quoted matter following paragraph (2) of the quoted material, by striking "resolution" and inserting "resolution, but shall suspend any initial order that was issued under section 252(a) of that Act if the final order for the same fiscal year has not yet been issued by the date of the enactment of this joint resolution"; and

(E) in paragraph (4)(C), by striking the text of clause (i) and inserting "In the Senate, the joint resolution under this clause is privileged. It shall not be in order to move to reconsider the vote by which the motion to proceed to the consideration of

the joint resolution is agreed to or disagreed to.";

(10) in section 251(e), by striking "preceding provisions of this section" and inserting "provisions of this part";

(11) in section 258—

(A) in subsection (a), by inserting "or provide an alternative to reduce the deficit" after "section 252";

(B) in subsection (b)(2) by—

(i) striking "22" and inserting "XXII";

(ii) inserting "the joint resolution is" after "The motion is highly privileged in the House of Representatives; and";

(iii) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment";

(C) in subsection (b)(3)(C)(ii)—

(i) by striking "or relevant"; and

(ii) by striking "the majority leader and the minority leader (or their designees)," and inserting ", and controlled by, the mover and the majority leader (or their designees), 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.";

(D) in subsection (b)(4), by inserting "pending" after "any";

(E) in subsection (b)(7)(B)(ii)(II) by—

(i) striking "it" and inserting "the Senate joint resolution"; and

(ii) inserting "House" after "passed the";

(12) in section 256(a)(2), by adding at the end thereof the following: "For the purposes of a sequester in a fiscal year, no withholding from obligation or expenditure shall be made from programs financed through special or trust funds in excess of the sequester percentage for such fiscal year.";

(13) in section 256(f), by adding before the last sentence the following: "No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the domestic sequester percentage.";

(14) 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.";

(15) in section 256(a), by adding at the end thereof the following new paragraphs:

"(3) MATCHING RATES.—Except as specifically provided in this Act, no reduction may be made to a Federal matching rate to implement a sequester.

"(4) SEQUESTRATION WITHIN EACH PROGRAM, PROJECT, OR ACTIVITY.—Administrative actions implementing a sequester for a budget account shall be limited to reducing the budgetary resources for each program, project, or activity in that account, and allocating the post-sequester base thereto. To the extent that formula allocations differ 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.";

(16) in section 251(a)(5) by inserting after "laws enacted by," the following: "treaties ratified by,";

(17) in section 251(c)(1)(A) by inserting after "laws enacted" the following: ", treaties ratified,";

(18) in section 252(b)(2) by inserting after "laws enacted" the following: ", treaties ratified,"; and

(19) in section 257, by adding at the end thereof the following new paragraph:

"(12) The term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum deficit amount for that fiscal year.".

SEC. 12609. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.

Section 305(c) of the Congressional Budget Act 1974 is amended—

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after "consideration of the conference report" the following: "on any concurrent resolution on the budget"; and

(2) in paragraph (2), by inserting "(or a message between Houses)" after "conference report" each place it appears.

SEC. 12610. CONFORMING CHANGE TO TITLE 31.

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31 of the United States Code is amended—

(1) in subparagraph (A), by striking the final word "or";

(2) in subparagraph (B)—

(A) by striking "law" and inserting "an Act of Congress"; and

(B) by striking the final period and inserting a semicolon; and

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

"(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31 of the United States Code is amended—

(1) by striking "law" and inserting "an Act of Congress"; and

(2) by inserting at the end thereof the following: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.".

Subtitle M—Budget Disclosure

SEC. 12651. DEBT INCREASE AS MEASURE OF DEFICIT.

(a) FINDINGS.—The Congress makes the following findings:

(1) While the annual deficits, as defined under current law, appear to be decreasing, the Federal debt continues to increase annually by significantly greater amounts.

(2) Displaying the increase in the debt as a measure of the deficit would illuminate this discrepancy.

(b) DEBT INCREASE AS MEASURE OF DEFICIT.—

(1) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for all fiscal years covered by that budget submission, a heading entitled 'Debt Increase as Measure of Deficit' in which the President shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31, United States Code) has increased or would increase in each of the relevant fiscal years.".

(2) Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12152(c) is amended—

(A) in paragraph (6), by striking "and" at the end thereof;

(B) in paragraph (7), by striking the period at the end thereof and inserting: "; and"; and

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

"(8) a heading entitled 'Debt Increase as Measure of Deficit' in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years.".

SEC. 12652. CONTINGENT LIABILITIES OF THE FEDERAL GOVERNMENT.

(a) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(26) a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting before the period at the end thereof the following: ", as well as a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles".

SEC. 12653. DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

(a) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, as amended by section 12651(b)(1), is amended by adding at the end thereof the following new subsection:

"(h) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for the fiscal year covered by that budget submission, a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the President shall set forth the balances of the Federal retirement trust funds.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12651(b)(2), is amended—

(1) in paragraph (7), by striking "and" at the end thereof;

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

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

"(9) a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.".

Subtitle N—Exercise of Rulemaking Powers

SEC. 12701. EXERCISE OF RULEMAKING POWERS.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as they relate to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XIII—SOCIAL SECURITY PRESERVATION

SEC. 1301. 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(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.

TITLE XIV—REDUCTION OF PAY FOR MEMBERS

SEC. 1401. 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, any executive officer or employee in the Executive Office of the President who on the date of the 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.
