

Calendar No. 88

103D CONGRESS
1ST SESSION

H. R. 2264

AN ACT

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

JUNE 10, 1993

Read the second time and placed on the calendar

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103^D CONGRESS
1ST SESSION**H. R. 2264**

IN THE SENATE OF THE UNITED STATES

JUNE 7, 1993

Received

JUNE 8 (legislative day, JUNE 7), 1993

Read the first time

JUNE 10, 1993

Read the second time and placed on the calendar

AN ACT

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

7 The table of contents is as follows:

TITLE I—COMMITTEE ON AGRICULTURE

TITLE II—COMMITTEE ON ARMED SERVICES

TITLE III—COMMITTEE ON BANKING, FINANCE AND URBAN
AFFAIRS

TITLE IV—COMMITTEE ON EDUCATION AND LABOR

TITLE V—COMMITTEE ON ENERGY AND COMMERCE

TITLE VI—COMMITTEE ON FOREIGN AFFAIRS

TITLE VII—COMMITTEE ON THE JUDICIARY

TITLE VIII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

TITLE IX—COMMITTEE ON NATURAL RESOURCES

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

TITLE XI—COMMITTEE ON PUBLIC WORKS

TITLE XII—COMMITTEE ON VETERANS' AFFAIRS

TITLE XIII—COMMITTEE ON WAYS AND MEANS—SAVINGS

TITLE XIV—COMMITTEE ON WAYS AND MEANS—REVENUES

TITLE XV—BUDGET PROCESS

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

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

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

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this title is as follows:

Sec. 1001. Short title and table of contents.

 Subtitle A—Commodity Programs

Sec. 1101. Wheat program.

Sec. 1102. Feed grain program.

Sec. 1103. Upland cotton program.

Sec. 1104. Rice program.

Sec. 1105. Dairy program.

Sec. 1106. Tobacco program.

Sec. 1107. Sugar program.

Sec. 1108. Oilseeds program.

- Sec. 1109. Peanut program.
- Sec. 1110. Honey program.
- Sec. 1111. Wool and mohair program.
- Sec. 1112. Conforming amendments to continue deficit reduction activities in crop years after 1995.

Subtitle B—Restructuring of Loan Programs

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

Subtitle C—Food Stamp Program

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

CHAPTER 1—ENSURING ADEQUATE FOOD ASSISTANCE

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

CHAPTER 2—PROMOTING SELF SUFFICIENCY

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

CHAPTER 3—SIMPLIFYING THE PROVISION OF FOOD ASSISTANCE

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

CHAPTER 4—IMPROVING PROGRAM INTEGRITY

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

CHAPTER 5—IMPROVING FOOD STAMP PROGRAM MANAGEMENT

- Sec. 1351. Clarification of categorical eligibility.

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

CHAPTER 6—UNIFORM REIMBURSEMENT RATES

- Sec. 1361. Uniform reimbursement rates.

CHAPTER 7—IMPLEMENTATION AND EFFECTIVE DATES

- Sec. 1371. Implementation and effective dates.

Subtitle D—Miscellaneous Provisions

- Sec. 1401. Maximum expenditures under market promotion program for fiscal years 1994 through 1998.
- Sec. 1402. Admission, entrance, and recreation fees.
- Sec. 1403. Additional program changes to meet reconciliation requirements.
- Sec. 1404. Environmental conservation acreage reserve program amendments.
- Sec. 1405. Levels of insurance coverage under the Federal Crop Insurance Act.

1 **Subtitle A—Commodity Programs**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(4) FARM MARKETING QUOTA.—

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

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

15 “(ii) the national factor.

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

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

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

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

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

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

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

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

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

13 (C) in subsection (d)—

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

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

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

25 (D) in subsection (e)—

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

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

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

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

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

14 (E) in subsection (g)—

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

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

21 (3) FARM MARKETING QUOTA REDUCTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(h) ADDITIONAL MARKETING ASSESSMENT.—

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

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

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

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

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

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

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

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

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

15 “(5) RESERVE ACCOUNT.—

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

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

1 marketing assessment applicable to that
2 crop of peanuts under this subsection; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

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

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

23 (C) by striking paragraph (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(c) INSURED ELECTRIC LOANS.—

20 “(1) HARDSHIP LOANS.—

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

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

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

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

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

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

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

11 “(2) MUNICIPAL RATE LOANS.—

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

18 “(B) INTEREST RATE.—

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

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

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

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

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

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

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

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

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

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

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

10 “(C) LOAN TERM.—

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

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

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

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

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

12 “(d) INSURED TELEPHONE LOANS.—

13 “(1) HARDSHIP LOANS.—

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

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

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

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

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

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

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

25 “(2) COST-OF-MONEY LOANS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(iv) The plan must provide for—

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

20 “(aa) multiple voices;

21 “(bb) video images; and

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

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

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

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

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

14 (A) in subsection (a)—

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

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

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

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

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

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

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

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

1 (ii) in paragraph (8)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (5) MISCELLANEOUS AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ment Administration substituted or added as a
2 party.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (d) RURAL ECONOMIC DEVELOPMENT.—

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

23 “(i) RURAL ECONOMIC DEVELOPMENT.—A borrower
24 of a loan or loan guarantee under the Rural Electrification
25 Act of 1936 shall be eligible for assistance under all pro-

1 grams administered by the Rural Development Adminis-
2 tration, and the Administrator of the Rural Development
3 Administration shall encourage and facilitate the full par-
4 ticipation of such a borrower in such programs.

5 “(j) TECHNICAL ASSISTANCE UNIT.—The Adminis-
6 trator of the Rural Development Administration shall es-
7 tablish a technical assistance unit to provide to borrowers
8 under the programs administered by the Rural Develop-
9 ment Administration advice and guidance on community
10 and economic development activities.”.

11 (2) CONFORMING REPEAL.—Section 11A of the
12 Rural Electrification Act of 1936 (7 U.S.C. 911a) is
13 hereby repealed.

14 (e) REGULATIONS.—Not later than January 1, 1994,
15 the Administrator of the Rural Development Administra-
16 tion shall issue interim final rules to implement the
17 amendments made by this section.

18 **Subtitle C—Food Stamp Program**

19 **SEC. 1301. SHORT TITLE.**

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

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

23 Except as otherwise provided in this subtitle, ref-
24 erences in this subtitle to “the Act” and sections of the
25 Act shall be deemed to be references to the Food Stamp

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

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

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

6 Section 3(o) of the Act (7 U.S.C. 2012(o)) is amend-
7 ed by striking “(4) through” and all that follows through
8 the end of the subsection, and inserting the following:

9 “and (4) on October 1, 1993, and each October 1 there-
10 after, adjust the cost of such diet to reflect 104 percent
11 of the cost of the thrifty food plan in the preceding June
12 (without regard to adjustments made to such costs in any
13 previous year), as determined by the Secretary, and round
14 the result to the nearest lower dollar increment for each
15 household size.”.

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

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

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

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

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

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

6 (b) LIMITATIONS.—

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

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

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

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

22 **TAX CREDITS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) in subsection (d)(13)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (1) in the first sentence—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **CHAPTER 4—IMPROVING PROGRAM**
2 **INTEGRITY**

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

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

8 (1) in the second sentence by inserting after
9 “disclosed to and used by” the following:

10 “State and Federal law enforcement and investigative
11 agencies for the purposes of administering or enforcing the
12 provisions of this Act or any other Federal or State law
13 and the regulations issued under this Act or such law,
14 and”;

15 (2) by inserting after the second sentence the
16 following:

17 “An officer or employee of an agency described in the pre-
18 ceding sentence who publishes, divulges, discloses, or
19 makes known in any manner or to any extent not author-
20 ized by Federal law any information obtained under the
21 authority granted by this subsection shall be subject to
22 section 1905 of title 18 of the United States Code.”; and

23 (3) in the last sentence by striking “Such pur-
24 poses shall not exclude” and inserting the follow-
25 ing—

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

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

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

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

8 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(ii) for a period of 1 year upon—

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

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

17 “(iii) permanently upon—

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

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

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

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

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

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

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

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

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

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

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

24 (1) in paragraph (1)(C)—

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

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

7 “equal to—

8 “(i) the product of—

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

12 “(II) the lesser of—

13 “(aa) the ratio of—

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

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

21 or

22 “(bb) one; times

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

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

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

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

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

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

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

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

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

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

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

21 (1) in subsection (a)—

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

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

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

8 (C) in the proviso by inserting after “75
9 per centum” the following:

10 “through June 30, 1994, 70 percent for the 1-year
11 period beginning July 1, 1994, 60 percent for the 1-
12 year period beginning July 1, 1995, and 50 percent
13 for any subsequent period,”;

14 (2) in subsection (g)—

15 (A) by inserting “through June 30, 1995,
16 equal to 60 percent for the 1-year period begin-
17 ning July 1, 1995, and 50 percent effective
18 July 1, 1996,” after “1991,”; and

19 (B) by striking “automatic” and inserting
20 “automated”; and

21 (3) in subsection (j) by inserting after “100 per
22 centum” the following:

23 “through June 30, 1994, 70 percent for the 1-year period
24 beginning July 1, 1994, 60 percent for the 1-year period

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

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

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

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

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

18 **CHAPTER 7—IMPLEMENTATION AND**

19 **EFFECTIVE DATES**

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

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

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

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

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

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

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

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

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

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

5 (a) AUTHORITY TO IMPOSE FEES.—

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

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

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

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

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

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

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

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

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

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

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

19 (A) Tent or trailer spaces.

20 (B) Drinking water.

21 (C) An access road.

22 (D) Refuse containers.

23 (E) Toilet facilities.

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

4 (G) Reasonable visitor protection.

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

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

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

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

18 (1) \$90,000,000 in fiscal year 1995;

19 (2) \$97,000,000 in fiscal year 1996;

20 (3) \$135,000,000 in fiscal year 1997; and

21 (4) \$178,000,000 in fiscal year 1998.

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

24 (a) ENROLLMENT REQUIREMENT.—

25 (1) CONSERVATION RESERVE PROGRAM.—

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

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

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

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

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

17 (2) WETLANDS RESERVE PROGRAM.—

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

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

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

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

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

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

9 (1) in subsection (a)—

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

15 (B) by striking paragraph (2); and

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

18 **SEC. 1405. LEVELS OF INSURANCE COVERAGE UNDER THE**

19 **FEDERAL CROP INSURANCE ACT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(d) PRICE ELECTIONS.—The Corporation shall es-
25 tablish a high and low price election for each agricultural

1 commodity for which insurance is available under this
2 title. The high price shall not be less than the projected
3 market price of the commodity. Coverage levels II, III, and
4 IV shall be available to producers at any price election
5 that is equal to or less than the high price election and
6 shall be quoted in terms of dollars per acre coverage that
7 may be purchased. Coverage level I shall be offered only
8 at the low price election.

9 “(e) COVERAGE AND PRICE INFORMATION.—The
10 Corporation shall ensure that each producer is provided
11 accurate and adequate information at the time of applica-
12 tion regarding the amount of coverage available at each
13 level of coverage for the commodity to be insured and the
14 cost to the producer for such coverage.

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

21 (b) PREMIUM PAYMENT.—Subsection (e)(3) of sec-
22 tion 508 of the Federal Crop Insurance Act (7 U.S.C.
23 1508) is amended to read as follows:

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

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

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

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

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

1 panies, reinsurers of such companies, or State or local gov-
2 ernmental entities, including any political subdivisions
3 thereof, that insure producers of any agricultural commod-
4 ity under a plan or plans acceptable to the Corporation.
5 However, in the case of the sale of coverage level I policies
6 only (but not for the processing and adjustment of claims
7 on those policies), contractors of the Corporation shall be
8 paid only \$50 per policy, of which \$25.50 shall be paid
9 by the policyholder at the time of application and \$24.50
10 shall be paid by the Corporation. Whenever the Corpora-
11 tion provides reinsurance under this subsection to any
12 such insurers, the Corporation shall pay (as provided in
13 subsection (e)) the portion of the producer's premium for
14 such insurance so reinsured. Insurers of policies on which
15 reinsurance is provided shall make use of licensed private
16 insurance agents and brokers on the same basis as pro-
17 vided for policies of the Corporation under section
18 507(c)(3) of this title, except that the provisions for com-
19 pensating agents and brokers from premiums paid by the
20 insured shall not apply. The Corporation shall periodically
21 revise its reinsurance agreement with the reinsured com-
22 panies to provide for the reinsured companies to bear an
23 increased share of any potential loss under such agree-
24 ment, in cases in which the financial conditions of the rein-

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

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

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

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

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

12 “(2) PRE-AUGUST 1, 1986 MEMBERS.—

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

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

21 “(ii) the base index.

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

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

“Fiscal year:	First month for which increase is payable:
1994	April 1994.
1995	July 1995.
1996	October 1996.
1997	January 1998.
1998	April 1999.

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

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

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

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

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

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

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

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

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

25 “(11) DEPOSITOR PREFERENCE.—

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

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

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

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

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

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

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

6 “(B) EFFECT ON STATE LAW.—

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

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

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

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

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

11 “(1) STOCKHOLDER DIVIDENDS.—

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

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

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

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

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

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

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

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

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

8 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

1 (A) in subparagraph (A)—

2 (i) in the matter preceding clause

3 (i)—

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

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

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

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

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

24 (3) PENALTY.—In subsection (c)(3)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE IV—EDUCATION AND LABOR

Sec. 4000. Table of contents.

Subtitle A—Federal Direct Loan Program

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

Sec. 4001. Short title; references.

Sec. 4002. Federal Direct Student Loan Program.

CHAPTER 2—CONFORMING AMENDMENTS

Sec. 4021. Preserving loan access.

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

CHAPTER 3—EFFECTIVE DATES; STUDY

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

Subtitle B—Cost Sharing by States

- Sec. 4101. Cost sharing by States.

Subtitle C—ERISA Amendments Relating to Group Health Plans

- Sec. 4201. Coordination of ERISA preemption rules with title XIX provisions providing for liability of third parties.
- Sec. 4202. Continued coverage of costs of a pediatric vaccine under group health plans.
- Sec. 4203. Temporary rules governing preemption of certain State laws.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(b) FEES FOR ORIGINATION SERVICES.—

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

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

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

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

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

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

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

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

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

23 “(a) PHASE-IN OF PROGRAM.—

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

1 454(a) with institutions of higher education to participate in the direct student loan programs under
2 this part, and agreements pursuant to section
3 454(b) with institutions of higher education to originate loans in such programs, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than
4 the participating institution at which the student is
5 in attendance originates the loan, shall be provided
6 by the Secretary, through one or more contracts
7 under section 456 or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the
8 first year of the program shall, to the extent feasible, be entered into not later than January 1,
9 1994.

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18 “(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the
19 loan programs under part B of this title to the direct student loan programs under this part, the Secretary shall, in the exercise of his or her discretion,
20 determine the number of institutions with which he
21 or she shall enter into agreements under sections
22 454 (a) and (b) for any academic year, except that
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1 the Secretary shall exercise such discretion so as to
2 achieve the following goals:

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

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

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

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

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

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

3 “(b) SELECTION CRITERIA FOR PARTICIPATION.—

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

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

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

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

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

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

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

8 “(c) SELECTION CRITERIA FOR ORIGINATION.—

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

12 “(A) has an agreement under subsection
13 454(a);

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

16 “(C) meets the criteria specified in para-
17 graph (2).

18 “(2) TRANSITION SELECTION CRITERIA.—For
19 academic year 1994–1995, the Secretary may ap-
20 prove an institution to originate loans only if such
21 institution—

22 “(A) made loans under part E of this title
23 in academic year 1993–1994 and did not exceed
24 the applicable maximum default rate under sec-

1 tion 464(g) for the most recent fiscal year for
2 which data are available;

3 “(B) is not on the reimbursement system
4 of payment for any of the programs under sub-
5 part 1 or 3 of part A, part C, or part E;

6 “(C) is not overdue on program or finan-
7 cial reports or audits required under this title;

8 “(D) is not subject to an emergency ac-
9 tion, or a limitation, suspension, or termination
10 under section 428(b)(1)(T), 432(h), or 487(c);

11 “(E) in the opinion of the Secretary, has
12 not had significant deficiencies identified by the
13 State postsecondary review entity under subpart
14 1 of part H of this title;

15 “(F) in the opinion of the Secretary, has
16 not had severe performance deficiencies for any
17 of the programs under this title, including those
18 demonstrated by audits or program reviews
19 submitted or conducted during the 5 calendar
20 years immediately preceding the date of appli-
21 cation;

22 “(G) provides an assurance that it has no
23 delinquent outstanding debts to the United
24 States, unless such debts are being repaid
25 under or in accordance with a repayment ar-

1 rangement satisfactory to the United States, or
2 the Secretary in his or her discretion deter-
3 mines that the existence or amount of such
4 debts has not been finally determined by the
5 cognizant Federal agency or agencies; and

6 “(H) meets such other criteria as the Sec-
7 retary may establish to protect the financial in-
8 terest of the United States and to promote the
9 purposes of this part.

10 “(3) REGULATIONS GOVERNING APPROVAL
11 AFTER TRANSITION.—For academic year 1995–1996
12 and subsequent academic years, the Secretary shall
13 publish regulations governing the approval of institu-
14 tions to originate loans.

15 “(d) CONSORTIA.—Subject to such requirements as
16 the Secretary may prescribe, eligible institutions of higher
17 education with agreements under section 454(a) may
18 apply as consortia to originate loans under this part for
19 students in attendance at such institutions. Such institu-
20 tions shall each be required to meet the requirements of
21 subsection (c) with respect to loan origination.

22 **“SEC. 454. AGREEMENTS WITH INSTITUTIONS.**

23 “(a) PARTICIPATION AGREEMENTS.—An agreement
24 with any institution of higher education for participation
25 in the direct student loan program under this part shall—

1 “(1) provide for the establishment and mainte-
2 nance of a direct student loan program at the insti-
3 tution under which the institution will—

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

7 “(B) estimate the need of each such stu-
8 dent as required by part F of this title for an
9 academic year, provided that any loan obtained
10 by a student under this part with the same
11 terms (except as otherwise provided in this
12 part) as loans made under section 428A or
13 428H, or a loan obtained by a parent under
14 this part with the same terms (except as other-
15 wise provided in this part) as loans made under
16 section 428B, or obtained under any State-
17 sponsored or private loan program, may be used
18 to offset the expected family contribution of the
19 student for that year;

20 “(C) provide a statement that certifies the
21 eligibility of any student to receive a loan under
22 this part that is not in excess of the annual or
23 aggregate limit applicable to the amount of
24 such loan, except that the institution may, in
25 exceptional circumstances specified in regula-

1 tions prescribed by the Secretary, refuse to cer-
2 tify a statement that permits a student to re-
3 ceive a loan under this part, or certify a loan
4 amount that is less than the student's deter-
5 mination of need (as determined under part F
6 of this title), if the reason for such action is
7 documented and provided in written form to
8 such student;

9 “(D) set forth a schedule for disbursement
10 of the proceeds of the loan in installments, con-
11 sistent with the requirements of section 428G
12 (other than subsection (b)(1) of such section);
13 and

14 “(E) provide timely and accurate informa-
15 tion—

16 “(i) concerning the status of student
17 borrowers (and students on whose behalf
18 parents borrow under this part) while such
19 students are in attendance at the institu-
20 tion and concerning any new information
21 of which the institution becomes aware for
22 such students (or their parents) after they
23 leave the institution, to the Secretary for
24 the servicing and collecting of loans made
25 under this part; and

1 “(ii) if the institution does not have
2 an agreement with the Secretary under
3 subsection (b), concerning student eligi-
4 bility and need, as determined under sub-
5 paragraphs (A) and (B), to the Secretary
6 as needed for the alternative origination of
7 loans to eligible students and parents in
8 accordance with this part;

9 “(2) provide assurances that the institution will
10 comply with requirements established by the Sec-
11 retary relating to student loan information with re-
12 spect to loans made under this part;

13 “(3) provide that the institution accepts respon-
14 sibility and financial liability stemming from its fail-
15 ure to perform its functions pursuant to the agree-
16 ment;

17 “(4) provide that students at the institution
18 and their parents (with respect to such students)
19 will not be eligible to participate in the programs
20 under part B of this title for the period during
21 which such institution participates in the direct stu-
22 dent loan program under this part;

23 “(5) provide for the implementation of a quality
24 assurance system, as established by the Secretary, to

1 ensure that the institution is complying with pro-
2 gram requirements and meeting program objectives;

3 “(6) provide that the institution will not charge
4 any fees of any kind, however described, to student
5 or parent borrowers for origination activities or the
6 provision of any information necessary for a student
7 or parent to receive a loan under this part, or any
8 benefits associated with such loan; and

9 “(7) include such other provisions as the Sec-
10 retary determines are necessary to protect the inter-
11 ests of the United States and to promote the pur-
12 poses of this part.

13 “(b) ORIGINATION.—An agreement with any institu-
14 tion of higher education for the origination of loans under
15 this part shall—

16 “(1) supplement the agreement entered into in
17 accordance with subsection (a);

18 “(2) include provisions established by the Sec-
19 retary that are similar to the participation agree-
20 ment provisions described in paragraphs (1)(E)(ii),
21 (2), (3), (4), (5), (6), and (7) of subsection (a), as
22 modified to relate to the origination of loans by the
23 institution;

1 “(3) provide that the institution will originate
2 loans to eligible students and parents in accordance
3 with this part; and

4 “(4) provide that the note or evidence of obliga-
5 tion on the loan shall be the property of the Sec-
6 retary.

7 “(c) WITHDRAWAL AND TERMINATION PROCE-
8 DURES.—The Secretary shall establish procedures by
9 which institutions may withdraw or be terminated from
10 the program under this part.

11 **“SEC. 455. TERMS AND CONDITIONS OF LOANS.**

12 “(a) IN GENERAL.—

13 “(1) PARALLEL TERMS, CONDITIONS, BENE-
14 FITS, AND AMOUNTS.—Unless otherwise specified in
15 this part, loans made to borrowers under this part
16 shall have the same terms, conditions, and benefits,
17 and be available in the same amounts, as loans made
18 to borrowers under sections 428, 428A, 428B, and
19 428H of this title.

20 “(2) DESIGNATION OF LOANS.—Loans made to
21 borrowers under this part that, except as otherwise
22 specified in this part, have the same terms, condi-
23 tions, and benefits as loans made to borrowers
24 under—

1 “(A) section 428 shall be known as ‘Fed-
2 eral Direct Student Loans’;

3 “(B) section 428A shall be known as ‘Fed-
4 eral Direct Supplemental Loans for Students’;

5 “(C) section 428B shall be known as ‘Fed-
6 eral Direct PLUS Loans’; and

7 “(D) section 428H shall be known as ‘Fed-
8 eral Direct Unsubsidized Student Loans’.

9 “(b) INTEREST RATES.—

10 “(1) RATES FOR FDSL AND FDUSL.—(A) For
11 Federal Direct Student Loans and Federal Direct
12 Unsubsidized Student Loans made before July 1,
13 1997, the applicable rate of interest shall, during
14 any 12-month period beginning on July 1 and end-
15 ing on June 30, be determined on the preceding
16 June 1 and be equal to—

17 “(i) the bond equivalent rate of 91-day
18 Treasury bills auctioned at the final auction
19 held prior to such June 1; plus

20 “(ii) 3.1 percent,
21 except that such rate shall not exceed 9 percent.

22 “(B) For Federal Direct Student Loans and
23 Federal Direct Unsubsidized Student Loans made
24 on or after July 1, 1997, the applicable rate of inter-
25 est shall, during any 12-month period beginning on

1 July 1 and ending on June 30, be determined on the
2 preceding June 1 for all such loans and be equal
3 to—

4 “(i) the bond equivalent rate of the secu-
5 rity with a comparable maturity as established
6 by the Secretary; plus

7 “(ii) 1 percent,
8 except that such rate shall not exceed 9 percent.

9 “(2) RATES FOR FDSLs.—(A) For Federal Di-
10 rect Supplemental Loans for Students made before
11 July 1, 1997, the applicable rate of interest shall,
12 during any 12-month period beginning on July 1
13 and ending on June 30, be determined on the pre-
14 ceding June 1 and be equal to—

15 “(i) the bond equivalent rate of 52-week
16 Treasury bills auctioned at the final auction
17 held prior to such June 1; plus

18 “(ii) 3.1 percent,
19 except that such rate shall not exceed 11 percent.

20 “(B) For Federal Direct Supplemental Loans
21 for Students made on or after July 1, 1997, the ap-
22 plicable rate of interest shall, during any 12-month
23 period beginning on July 1 and ending on June 30,
24 be determined on the preceding June 1 for all such
25 loans and be equal to—

1 “(i) the bond equivalent rate of the secu-
2 rity with a comparable maturity as established
3 by the Secretary; plus

4 “(ii) 1.5 percent,
5 except that such rate shall not exceed 11 percent.

6 “(3) RATES FOR FDPLUS.—(A) For Federal
7 Direct PLUS loans made before July 1, 1997, the
8 applicable rate of interest shall, during any 12-
9 month period beginning on July 1 and ending on
10 June 30, be determined on the preceding June 1 for
11 loans and be equal to—

12 “(i) the bond equivalent rate of 52-week
13 Treasury bills auctioned at the final auction
14 held prior to such June 1; plus

15 “(ii) 3.1 percent,
16 except that such rate shall not exceed 10 percent.

17 “(B) For Federal Direct PLUS loans made on
18 or after July 1, 1997, the applicable rate of interest
19 shall, during any 12-month period beginning on July
20 1 and ending on June 30, be determined on the pre-
21 ceding June 1 for all such loans and be equal to—

22 “(i) the bond equivalent rate of the secu-
23 rity with a comparable maturity as established
24 by the Secretary; plus

25 “(ii) 2.1 percent,

1 except that such rate shall not exceed 10 percent.

2 “(4) PUBLICATION.—The Secretary shall deter-
3 mine the applicable rates of interest under this sub-
4 section after consultation with the Secretary of
5 Treasury and shall publish such rate in the Federal
6 Register as soon as practicable after the date of de-
7 termination.

8 “(c) LOAN FEE.—For academic years 1994–1995,
9 1995–1996, and 1996–1997, the Secretary shall charge
10 the borrower of a loan made under this part a loan fee
11 of 5 percent of the principal amount of the loan. For aca-
12 demic years 1997–1998 and succeeding academic years,
13 the Secretary shall charge the borrower of a loan made
14 under this part a loan fee of 3.65 percent of the principal
15 amount of the loan.

16 “(d) REPAYMENT PLANS.—

17 “(1) DESIGN AND SELECTION.—Consistent with
18 criteria established by the Secretary, the Secretary
19 shall offer to a borrower of a loan made under this
20 part a variety of plans for repayment of such loan,
21 including principal and interest on the loan. The
22 borrower shall be entitled to accelerate, without pen-
23 alty, repayment on his or her loans. The borrower
24 may choose—

1 “(A) a standard repayment plan, with a
2 fixed annual repayment amount paid over a
3 fixed period of time, consistent with subsection
4 (a)(1) of this section;

5 “(B) an extended repayment plan, with a
6 fixed annual repayment amount paid over an
7 extended period of time, provided that the bor-
8 rower annually repays a minimum amount de-
9 termined by the Secretary, consistent with the
10 requirements of section 428(b)(1)(L);

11 “(C) a graduated repayment plan, with an-
12 nual repayment amounts established at two or
13 more graduated levels and paid over a fixed or
14 extended period of time, provided that any of
15 the borrower’s scheduled payments shall not be
16 less than 50 percent, nor more than 150 per-
17 cent, of what the amortized payment on the
18 amount owed would be if the loan were repaid
19 under the standard repayment plan; and

20 “(D) except for the borrower of a Federal
21 Direct PLUS Loan, an income contingent re-
22 payment plan known as the ‘EXCEL Account,’
23 with varying annual repayment amounts based
24 on the income of the borrower, paid over an ex-
25 tended period of time, not to exceed a maxi-

1 mum length of time determined by the Sec-
2 retary.

3 “(2) SELECTION BY SECRETARY.—If a bor-
4 rower of a loan made under this part does not select
5 a repayment plan described in paragraph (1), the
6 Secretary may provide the borrower with a repay-
7 ment plan described in subparagraph (A), (B), or
8 (C) of paragraph (1).

9 “(3) CHANGES IN SELECTIONS.—The borrower
10 of a loan made under this part may change his or
11 her selection of a repayment plan under paragraph
12 (1), or the Secretary’s selection of a plan for the
13 borrower under paragraph (2), as the case may be,
14 under such terms and conditions as may be estab-
15 lished by the Secretary.

16 “(4) ALTERNATIVE REPAYMENT PLANS.—The
17 Secretary may provide, on a case-by-case basis, an
18 alternative repayment plan to a borrower of a loan
19 under this part who demonstrates to the satisfaction
20 of the Secretary that the terms and conditions of the
21 repayment plans available under paragraph (1) are
22 not adequate to accommodate the borrower’s excep-
23 tional circumstances. In designing such alternative
24 repayment plans, the Secretary shall ensure that
25 such plans do not exceed the cost to the Federal

1 Government, as determined on the basis of the
2 present value of future payments by such borrowers,
3 of loans made using the plans available under para-
4 graph (1).

5 “(5) REPAYMENT AFTER DEFAULT.—The Sec-
6 retary may require any borrower who has defaulted
7 on a loan made under this part to—

8 “(A) pay all reasonable collection costs as-
9 sociated with such loan; and

10 “(B) repay the loan pursuant to an
11 EXCEL Account in accordance with subsection
12 (e).

13 “(e) REPAYMENT THROUGH EXCEL ACCOUNTS.—

14 “(1) INFORMATION AND PROCEDURES.—The
15 Secretary may obtain such information as is reason-
16 ably necessary regarding the income of a borrower
17 (and the borrower’s spouse, if applicable) of a loan
18 made under this part that is, or may be, repaid pur-
19 suant to an EXCEL Account for the purpose of de-
20 termining the annual repayment obligation of the
21 borrower. Return and return information (as defined
22 in section 6103 of the Internal Revenue Code of
23 1986) may be obtained under the preceding sentence
24 only to the extent authorized by section 6103(l)(13)
25 of such Code. The Secretary shall establish proce-

1 dures for determining the borrower’s repayment obli-
2 gation on that loan for such year, and such other
3 procedures as are necessary to implement effectively
4 repayment pursuant to an EXCEL Account.

5 “(2) REPAYMENT BASED ON ADJUSTED GROSS
6 INCOME.—A repayment schedule for a loan made
7 under this part and repaid pursuant to an EXCEL
8 Account shall be based on adjusted gross income (as
9 defined in section 62 of the Internal Revenue Code
10 of 1986, 26 U.S.C. 62) of the borrower or, if the
11 borrower is married and files a Federal income tax
12 return jointly with his or her spouse, on adjusted
13 gross income of the borrower and his or her spouse.

14 “(3) ADDITIONAL DOCUMENTS.—A borrower
15 who chooses, or is required, to repay a loan made
16 under this part pursuant to an EXCEL Account,
17 and for whom adjusted gross income is unavailable
18 or does not reasonably reflect his or her current in-
19 come, shall provide to the Secretary other docu-
20 mentation of income satisfactory to the Secretary,
21 which documentation the Secretary may use to de-
22 termine an appropriate repayment schedule.

23 “(4) REPAYMENT SCHEDULES.—EXCEL Ac-
24 count repayment schedules shall be established by
25 the Secretary through regulations and shall require

1 payments measured as a percentage of the appro-
2 priate portion of the annual income of the borrower
3 (and the borrower's spouse, if applicable) as deter-
4 mined by the Secretary.

5 “(5) CALCULATION OF BALANCE DUE.—The
6 balance due on a loan made under this part that is
7 repaid pursuant to an EXCEL Account shall equal
8 the unpaid principal amount of the loan, any ac-
9 crued interest, and any fees, such as late charges,
10 assessed on such loan. The Secretary may limit by
11 regulation the amount of interest that may be cap-
12 italized on such loan, and the timing of any such
13 capitalization.

14 “(6) NOTIFICATION TO BORROWERS.—The Sec-
15 retary shall establish procedures under which a bor-
16 rower of a loan made under this part who chooses
17 or is required to repay such loan pursuant to an
18 EXCEL Account is notified of the terms and condi-
19 tions of such plan, including notification of such bor-
20 rower—

21 “(A) that the Internal Revenue Service will
22 disclose to the Secretary tax return information
23 as authorized under section 6103(l)(13) of the
24 Internal Revenue Code of 1986; and

1 “(B) that if a borrower considers that spe-
2 cial circumstances, such as a loss of employ-
3 ment by the borrower or his or her spouse, war-
4 rant an adjustment in the borrower’s loan re-
5 payment as determined using the information
6 described in subparagraph (A), or the alter-
7 native documentation described in paragraph
8 (3), the borrower may contact the Secretary,
9 who shall determine whether such adjustment is
10 appropriate, in accordance with criteria estab-
11 lished by the Secretary.

12 “(f) DEFERMENT.—

13 “(1) EFFECT ON PRINCIPAL AND INTEREST.—
14 A borrower of a loan made under this part who
15 meets the requirements described in paragraph (2)
16 shall be eligible for a deferment, during which peri-
17 odic installments of principal need not be paid, and
18 interest—

19 “(A) shall not accrue, in the case of a Fed-
20 eral Direct Student Loan or a Federal Direct
21 Consolidation Loan that consolidated only Fed-
22 eral Direct Student Loans, or a combination of
23 such loans and Federal Student Loans for
24 which the student borrower received an interest
25 subsidy under section 428; or

1 “(B) shall accrue and be capitalized or
2 paid by the borrower, in the case of a Federal
3 Direct Supplemental Loan for Students loan, a
4 Federal Direct PLUS Loan, a Federal Direct
5 Unsubsidized Student Loan, or a Federal Di-
6 rect Consolidation Loan other than those de-
7 scribed in subparagraph (A).

8 “(2) ELIGIBILITY.—A borrower of a loan made
9 under this part shall be eligible for a deferment dur-
10 ing any period—

11 “(A) during which the borrower—

12 “(i) is pursuing at least a half-time
13 course of study at an eligible institution, as
14 determined by such institution; or

15 “(ii) is pursuing a course of study
16 pursuant to a graduate fellowship program
17 approved by the Secretary, or pursuant to
18 a rehabilitation training program for indi-
19 viduals with disabilities approved by the
20 Secretary,

21 except that no borrower shall be eligible for a
22 deferment under this subparagraph, or a loan
23 made under this part (other than a Federal Di-
24 rect PLUS Loan, or a Federal Direct Consoli-

1 dation Loan), while serving in a medical intern-
2 ship or residency program;

3 “(B) not in excess of 3 years during which
4 the borrower is seeking and unable to find full-
5 time employment; or

6 “(C) not in excess of 3 years during which
7 the Secretary determines, in accordance with
8 regulations prescribed under section 435(o),
9 that the borrower has experienced or will expe-
10 rience an economic hardship, regardless of the
11 reason for such hardship.

12 “(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A
13 borrower of a loan made under this part may consolidate
14 such loan with the loans described in subsections (a)(4)
15 and (d)(1)(C) of section 428C only under the terms and
16 conditions established by the Secretary under this part.
17 Loans made under this subsection shall be known as ‘Fed-
18 eral Direct Consolidation Loans’.

19 “(h) BORROWER DEFENSES.—Notwithstanding any
20 other provision of State or Federal law, the Secretary shall
21 specify in regulations (except as authorized under section
22 458(a)) which acts or omissions of an institution of higher
23 education a borrower may assert as a defense to repay-
24 ment of a loan made under this part, except that in no
25 event may a borrower recover from the Secretary, in any

1 action arising from or relating to a loan made under this
2 part, an amount in excess of the amount such borrower
3 has repaid on such loan.

4 “(i) NONDISCHARGEABILITY IN BANKRUPTCY.—Not-
5 withstanding any other provision of law, a loan made
6 under this part shall not be dischargeable in bankruptcy.

7 **“SEC. 456. CONTRACTS.**

8 “(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

9 “(1) IN GENERAL.—The Secretary may award
10 one or more contracts for services and supplies
11 under subsection (b). The entities with which the
12 Secretary may enter into such contracts may in-
13 clude, but are not limited to, agencies with agree-
14 ments with the Secretary under sections 428(b) and
15 (c), if such agencies are otherwise qualified and com-
16 ply with the procedures applicable to the award of
17 such contracts.

18 “(2) EXEMPTION.—(A) The Secretary may,
19 through June 30, 1998, award contracts under this
20 section without regard to the requirements in section
21 303 of the Federal Property and Administrative
22 Services Act of 1949 (41 U.S.C. 253), section 18 of
23 the Office of Federal Procurement Policy Act (41
24 U.S.C. 416), and section 8(e) of the Small Business
25 Act (15 U.S.C. 637(e)) and the corresponding re-

1 requirements of the Federal Acquisition Regulations if
2 the Secretary—

3 “(i) determines in writing, on a case-by-
4 case basis, that the Government’s need for the
5 services and supplies to be provided under the
6 contract is of such an unusual and compelling
7 urgency that sources from which the Secretary
8 solicits bids or proposals must be limited; and

9 “(ii) notifies the Congress in writing of
10 that determination not more than 30 days after
11 the award of the contract.

12 “(B) The Secretary may make the determina-
13 tion described in subparagraph (A)(i) if the Sec-
14 retary determines that exemption from the require-
15 ments described in subparagraph (A) is in the public
16 interest and necessary for the orderly transition
17 from the loan programs under part B to the direct
18 student loan programs under this part.

19 “(C) On and after July 1, 1998, all statutory
20 and regulatory requirements described in subpara-
21 graph (A) shall apply to the award of a contract
22 under this section.

23 “(b) CONTRACTS FOR ORIGINATION, SERVICING, AND
24 DATA SYSTEMS.—The Secretary may enter into one or
25 more contracts for—

1 “(1) the alternative origination of loans to stu-
2 dents attending institutions with agreements to par-
3 ticipate in the program under this part (or their par-
4 ents), if such institutions do not have agreements
5 with the Secretary under section 454(b);

6 “(2) the servicing and collection of loans made
7 under this part;

8 “(3) the establishment and operation of one or
9 more data systems for the maintenance of records
10 on all loans made under this part;

11 “(4) services to assist in the orderly transition
12 from the loan programs under part B to the direct
13 student loan programs under this part; and

14 “(5) such other aspects of the direct student
15 loan programs as the Secretary determines are nec-
16 essary to ensure the successful operation of the
17 programs.

18 **“SEC. 457. REPORTS.**

19 “(a) ANNUAL REPORTS.—The Secretary shall submit
20 to the Congress not later than July 1, 1993, and each
21 July 1 for the 5 succeeding years an annual report de-
22 scribing the progress and status of the loan program
23 under this part.

24 “(b) RESEARCH, DEMONSTRATION, AND EVALUA-
25 TION.—The Secretary may use a portion of the funds de-

1 scribed in section 459 for research on, or the demonstra-
2 tion or evaluation of, any aspects of the program author-
3 ized by this part, including flexible repayment plans.

4 **“SEC. 458. REGULATORY ACTIVITIES.**

5 “(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST
6 YEAR OF PROGRAM.—The Secretary shall publish in the
7 Federal Register whatever standards, criteria, and proce-
8 dures, consistent with the provisions of this part, the Sec-
9 retary determines are reasonable and necessary to the suc-
10 cessful implementation of the first year of the direct stu-
11 dent loan program authorized by this part. Section 431
12 of the General Education Provisions Act shall not apply
13 to the publication of such standards, criteria, and proce-
14 dures.

15 “(b) CLOSING DATE FOR APPLICATIONS FROM IN-
16 STITUTIONS.—The Secretary shall establish a date not
17 later than October 1, 1993, as the closing date for receiv-
18 ing applications from institutions of higher education de-
19 siring to participate in the first year of the direct loan
20 program under this part.

21 “(c) PUBLICATION OF LIST OF PARTICIPATING IN-
22 STITUTIONS AND CONTROL GROUP.—Not later than Jan-
23 uary 1, 1994, the Secretary shall publish in the Federal
24 Register a list of the institutions of higher education se-

1 lected to participate in the first year of the direct loan
2 program under this part.

3 **“SEC. 459. FUNDS FOR ADMINISTRATIVE EXPENSES.**

4 “Each fiscal year, there shall be available to the Sec-
5 retary of Education from funds not otherwise appro-
6 priated, funds to be obligated for administrative costs
7 under this part, including the costs of the transition from
8 the loan programs under part B to the direct student loan
9 programs under this part and transition support for the
10 expenses of guaranty agencies in servicing outstanding
11 loans in their portfolios and in guaranteeing new loans,
12 not to exceed \$261,000,000 in fiscal year 1994,
13 \$346,000,000 in fiscal year 1995, \$552,000,000 in fiscal
14 year 1996, \$596,000,000 in fiscal year 1997, and
15 \$749,000,000 in fiscal year 1998. If in any fiscal year,
16 the Secretary determines that additional funds for admin-
17 istrative expenses are needed as a result of such transi-
18 tion, or the expansion of the direct student loan programs
19 under this part, the Secretary is authorized to use funds
20 available under this section for a subsequent fiscal year
21 for such expenses, except that the total expenditures by
22 the Secretary shall not exceed \$2,504,000,000 in fiscal
23 years 1994 through 1998. The Secretary is also author-
24 ized to carry over funds available under this section to
25 a subsequent fiscal year.”.

1 CHAPTER 2—CONFORMING AMENDMENTS**2 SEC. 4021. PRESERVING LOAN ACCESS.**

3 (a) PURPOSE.—It is the purpose of the amendments
4 made by this section to provide the Secretary with flexible
5 authority as needed to preserve access to student and par-
6 ent loans under part B of title IV of the Act during the
7 transition from the Federal Family Education Loan Pro-
8 gram under such part to the Federal Direct Student Loan
9 Program under part D of such title.

10 (b) ADVANCES TO GUARANTY AGENCIES FOR LEND-
11 ER-OF-LAST RESORT SERVICES.—

12 (1) AMENDMENT.—Section 428(j) of the Act is
13 amended by adding at the end thereof the following
14 new paragraph:

15 “(4) ADVANCES TO GUARANTY AGENCIES FOR
16 LENDER-OF-LAST RESORT SERVICES DURING TRAN-
17 SITION TO DIRECT LENDING.—(A) In order to en-
18 sure the availability of loan capital during the tran-
19 sition from the Federal Family Education Loan pro-
20 gram under this part to the Federal Direct Student
21 Loan program under part D of this title, the Sec-
22 retary is authorized to provide a guaranty agency
23 with additional advance funds in accordance with
24 section 422(c)(7), with such restrictions on the use
25 of such funds as are determined appropriate by the

1 Secretary, in order to ensure that the guaranty
2 agency will make loans as the lender-of-last-resort.
3 Such agency shall make such loans in accordance
4 with this subsection and the requirements of the
5 Secretary.

6 “(B) Notwithstanding any other provision of
7 this part, a guaranty agency serving as a lender-of-
8 last-resort under this paragraph shall be paid a fee,
9 established by the Secretary, for making such loans
10 in lieu of interest and special allowance subsidies,
11 and shall be required to assign such loans to the
12 Secretary on demand. Upon such assignment, the
13 portion of the advance represented by the loans as-
14 signed shall be considered repaid by such guaranty
15 agency.”.

16 (2) CONFORMING AMENDMENT.—Section
17 422(c)(7) of the Act is amended by striking “to a
18 guaranty agency” through the end thereof and in-
19 serting the following: “to a guaranty agency—

20 “(A) in accordance with section 428(j), in
21 order to ensure that the guaranty agency shall
22 make loans as the lender-of-last-resort during
23 the transition from the Federal Family Edu-
24 cation Loan Program under this part to the

1 Federal Direct Student Loan Program under
2 part D of this title; or

3 “(B) if the Secretary is seeking to termi-
4 nate the guaranty agency’s agreement, or as-
5 suming the guaranty agency’s functions, in ac-
6 cordance with section 428(c)(10)(F)(v), in
7 order to assist the agency in meeting its imme-
8 diate cash needs, ensure the uninterrupted pay-
9 ment of claims, or ensure that the guaranty
10 agency shall make loans as described in sub-
11 paragraph (A);”.

12 (c) LENDER REFERRAL SERVICES.—Section 428(e)
13 of the Act is amended—

14 (1) in paragraph (1)—

15 (A) by amending the paragraph heading to
16 read as follows: “IN GENERAL; AGREEMENTS
17 WITH GUARANTY AGENCIES.—”;

18 (B) by inserting the subparagraph designa-
19 tion “(A)” immediately after the paragraph
20 heading;

21 (C) by striking “in any State” and insert-
22 ing “with which the Secretary has an agree-
23 ment under subparagraph (B)”; and

24 (D) by adding at the end thereof the fol-
25 lowing new subparagraph:

1 “(B)(i) The Secretary may enter into agree-
2 ments with guaranty agencies that meet standards
3 established by the Secretary to provide lender refer-
4 ral services in geographic areas specified by the Sec-
5 retary. Such guaranty agencies shall be paid in ac-
6 cordance with paragraph (3) for such services.

7 “(ii) The Secretary shall publish in the Federal
8 Register whatever standards, criteria, and proce-
9 dures consistent with the provisions of this part and
10 part D of this title, the Secretary determines are
11 reasonable and necessary to provide lender referral
12 services under this subsection and ensure loan access
13 to student and parent borrowers during the transi-
14 tion from the loan programs under this part to the
15 direct student loan programs under part D of this
16 title. Section 431 of the General Education Provi-
17 sions Act shall not apply to the publication of such
18 standards, criteria, and procedures.”;

19 (2) in paragraph (2)—

20 (A) in the matter preceding subparagraph
21 (A), by striking “in a State” and inserting
22 “with which the Secretary has an agreement
23 under paragraph (1)(B)”;

24 (B) by amending subparagraph (A) to read
25 as follows:

1 “(A) such student is either a resident of,
2 or is accepted for enrollment in, or is attending,
3 an eligible institution located in a geographic
4 area for which the Secretary (I) determines
5 that loans are not available to all eligible stu-
6 dents, and (II) has entered into an agreement
7 with a guaranty agency under paragraph (1)(B)
8 to provide lender referral services; and”;

9 (4) in paragraph (3), by striking “The” and in-
10 serting “From funds available for costs of transition
11 under section 459 of the Act, the”; and

12 (5) by striking paragraph (5).

13 (d) STUDENT LOAN MARKETING ASSOCIATION.—
14 Section 439(q) of the Act is amended—

15 (1) in paragraph (1)(A)—

16 (A) in the first sentence, by striking “the
17 Association or its designated agency may begin
18 making loans” and inserting “the Association
19 or its designated agent shall, subject to the lim-
20 itations in section 428(j)(3), begin making
21 loans to such eligible borrowers”; and

22 (B) by striking the second sentence;

23 (2) in paragraph (2)(A), by striking “the Asso-
24 ciation or its designated agent may” and inserting

1 “the Association or its designated agent shall, sub-
2 ject to the limitations in section 428(j)(3),”; and

3 (3) in paragraph (3), by striking “that—”
4 through the end thereof and inserting the following:
5 “that the conditions that caused the implementation
6 of this subsection have ceased to exist.”.

7 **SEC. 4022. GUARANTY AGENCY RESERVES.**

8 Section 422 of the Act is amended by adding at the
9 end thereof the following new subsection:

10 “(g) PRESERVATION OF GUARANTY AGENCY RE-
11 SERVES.—

12 “(1) AUTHORITY TO RECOVER FUNDS.—Not-
13 withstanding any other provision of law, the reserve
14 funds of the guaranty agencies, and any assets pur-
15 chased with such reserve funds, regardless of who
16 holds or controls the reserves or assets, shall be con-
17 sidered to be the property of the United States to
18 be used in the operation of the program authorized
19 by this part or the program authorized by part D of
20 this title. However, the Secretary may not require
21 the return of all of a guaranty agency reserve funds
22 to the Secretary unless he or she determines that
23 such return is essential to the operation of the pro-
24 gram authorized by this part or the program author-
25 ized by part D of this title, or to ensure the orderly

1 termination of the guaranty agency's operations and
2 the liquidation of its assets. The reserves shall be
3 maintained by each guaranty agency to pay program
4 expenses and contingent liabilities, as authorized by
5 the Secretary, except that the Secretary may—

6 “(A) direct a guaranty agency to return to
7 the Secretary a portion of its reserve fund
8 which the Secretary determines is unnecessary
9 to pay the program expenses and contingent li-
10 abilities of the guaranty agency; and

11 “(B) direct the guaranty agency to require
12 the return, to the guaranty agency or to the
13 Secretary, of any reserve funds or assets held
14 by, or under the control of, any other entity,
15 which the Secretary determines are necessary to
16 pay the program expenses and contingent liabil-
17 ities of the guaranty agency, or which are re-
18 quired for the orderly termination of the guar-
19 anty agency's operations and the liquidation of
20 its assets.

21 “(2) TERMINATION PROVISIONS IN CON-
22 TRACTS.—To ensure that the funds and assets of
23 the guaranty agency are preserved, any contract
24 with respect to the administration of a guaranty
25 agency's reserve funds, or the administration of any

1 assets purchased or acquired with the reserve funds
2 of the guaranty agency, that is entered into or ex-
3 tended by the guaranty agency, or any other party
4 on behalf of or with the concurrence of the guaranty
5 agency, after the effective date of this provision shall
6 provide that the contract is terminable by the Sec-
7 retary upon 30 days notice to the contracting parties
8 if the Secretary determines that such contract in-
9 cludes an impermissible transfer of the reserve funds
10 or assets, or is otherwise inconsistent with the terms
11 or purposes of this section.”.

12 **SEC. 4023. TERMS OF LOANS.**

13 Section 428 of the Act is amended—

14 (1) in subsection (b)(1)(D), by striking “be
15 subject to” through the end thereof and inserting
16 the following: “be subject to income contingent re-
17 payment in accordance with subsection (m);”; and

18 (2) in subsection (m)—

19 (A) by amending paragraph (1) to read as
20 follows:

21 “(1) **AUTHORITY OF SECRETARY TO RE-**
22 **QUIRE.**—The Secretary may require any borrower
23 who has defaulted on a loan made under this part
24 that is assigned to the Secretary under subsection
25 (c)(8) to repay that loan under an income contingent

1 repayment plan, the terms and conditions of which
2 shall be established by the Secretary and the same
3 as, or similar to, the EXCEL Account established
4 for purposes of part D of this title.”; and

5 (B) by striking paragraphs (2) through (4)
6 and inserting the following:

7 “(2) LOANS FOR WHICH INCOME CONTINGENT
8 REPAYMENT MAY BE REQUIRED.—A loan made
9 under this part may be required to be repaid under
10 this subsection if the note or other evidence of the
11 loan has been assigned to the Secretary pursuant to
12 subsection (c)(8).”.

13 **SEC. 4024. ASSIGNMENT OF LOANS.**

14 Section 428(c)(8) of the Act is amended by—

15 (1) inserting the subparagraph designation
16 “(A)” after the paragraph heading;

17 (2) striking the second and third sentences; and

18 (3) adding at the end thereof the following new
19 subparagraph:

20 “(B) An orderly transition from the Federal
21 Family Education Loan program under this part to
22 the Federal Direct Student Loan program under
23 part D of this title shall be deemed to be in the Fed-
24 eral fiscal interest, and a guaranty agency shall

1 promptly assign loans to the Secretary under this
2 paragraph upon his or her request.”.

3 **SEC. 4025. TERMINATION OF GUARANTY AGENCY AGREE-**
4 **MENTS; ASSUMPTION OF GUARANTY AGENCY**
5 **FUNCTIONS BY THE SECRETARY.**

6 Section 428(c)(10) of the Act is amended—

7 (1) in subparagraph (C), by inserting a comma
8 and “as appropriate,” immediately after “the Sec-
9 retary shall”;

10 (2) in subparagraph (D)—

11 (A) by inserting the clause designation
12 “(i)” after “(D)”;

13 (B) by striking “Each” and inserting “If
14 the Secretary is not seeking to terminate the
15 guaranty agency’s agreement under subpara-
16 graph (E), or assuming the guaranty agency’s
17 functions under subparagraph (F), a”;

18 (C) by adding at the end thereof the fol-
19 lowing new clause:

20 “(ii) If the Secretary is seeking to terminate
21 the guaranty agency’s agreement under subpara-
22 graph (E), or assuming the guaranty agency’s func-
23 tions under subparagraph (F), a management plan
24 described in subparagraph (C) shall include the
25 means by which the Secretary and the guaranty

1 agency shall work together to ensure the orderly ter-
2 mination of the operations, and liquidation of the as-
3 sets of, the guaranty agency.”;

4 (3) in subparagraph (E)—

5 (A) in clause (ii), by striking “or” at the
6 end thereof;

7 (B) in clause (iii), by striking the period at
8 the end thereof and inserting a semicolon; and

9 (C) by adding at the end thereof the fol-
10 lowing new clauses:

11 “(iv) the Secretary determines that such
12 action is necessary to protect the Federal fiscal
13 interest;

14 “(v) the Secretary determines that such
15 action is necessary to ensure the continued
16 availability of loans to student or parent bor-
17 rowers; or

18 “(vi) the Secretary determines that such
19 action is necessary to ensure an orderly transi-
20 tion from the loan programs under this part to
21 the direct student loan programs under part D
22 of this title.”;

23 (4) in subparagraph (F)—

1 (A) in the matter preceding clause (i), by
2 striking “Except as provided in subparagraph
3 (G), if” and inserting “If”;

4 (B) by amending clause (v) to read as fol-
5 lows:

6 “(v) provide the guaranty agency with ad-
7 ditional advance funds in accordance with sec-
8 tion 422(c)(7), with such restrictions on the use
9 of such funds as is determined appropriate by
10 the Secretary, in order to—

11 “(I) meet the immediate cash needs of
12 the guaranty agency;

13 “(II) ensure the uninterrupted pay-
14 ment of claims; or

15 “(III) ensure that the guaranty agen-
16 cy will make loans as the lender-of-last-
17 resort, in accordance with subsection
18 (j)(4);”;

19 (C) in clause (vi)—

20 (i) by striking “and to avoid” and in-
21 serting “to avoid”;

22 (ii) by striking the period at the end
23 thereof and inserting “, and to ensure an
24 orderly transition from the loan programs

1 under this part to the direct student loan
2 programs under part D of this title.”; and

3 (iii) by redesignating such clause as
4 clause (vii); and

5 (D) by inserting after clause (v) the follow-
6 ing new clause:

7 “(vi) use all funds and assets of the guar-
8 anty agency to assist in the activities under-
9 taken in accordance with this subparagraph and
10 take appropriate action to require the return, to
11 the guaranty agency or the Secretary, of any
12 funds or assets provided by the guaranty agen-
13 cy, under contract or otherwise, to any person
14 or organization; or”;

15 (5) by striking subparagraph (G);

16 (6) by redesignating subparagraphs (H), (I),
17 and (J) as subparagraphs (I), (J), and (K), respec-
18 tively;

19 (7) by inserting after subparagraph (F) the fol-
20 lowing new subparagraphs:

21 “(G) Notwithstanding any other provision of
22 Federal or State law, if the Secretary has termi-
23 nated or is seeking to terminate a guaranty agency’s
24 agreement under subparagraph (E), or has assumed

1 a guaranty agency's functions under subparagraph
2 (F)—

3 “(i) such guaranty agency may not file for
4 bankruptcy;

5 “(ii) no State court may issue any order
6 affecting the Secretary's actions with respect to
7 such guaranty agency;

8 “(iii) any contract with respect to the ad-
9 ministration of a guaranty agency's reserve
10 funds, or the administration of any assets pur-
11 chased or acquired with the reserve funds of the
12 guaranty agency, that is entered into or ex-
13 tended by the guaranty agency, or any other
14 party on behalf of or with the concurrence of
15 the guaranty agency, after the effective date of
16 this provision shall provide that the contract is
17 terminable by the Secretary upon 30 days no-
18 tice to the contracting parties if the Secretary
19 determines that such contract includes an im-
20 permissible transfer of the reserve funds or as-
21 sets, or is otherwise inconsistent with the terms
22 or purposes of this section; and

23 “(iv) no provision of State law shall apply
24 to the actions of the Secretary in terminating
25 the operations of a guaranty agency.

1 “(H) Notwithstanding any other provision of
2 law, the Secretary’s liability for any outstanding li-
3 abilities of a guaranty agency (other than outstand-
4 ing student loan guarantees under this part), the
5 functions of which the Secretary has assumed, shall
6 not exceed the fair market value of the reserves of
7 the guaranty agency, minus any necessary liquida-
8 tion or other administrative costs.”; and

9 (8) in subparagraph (K) (as redesignated by
10 paragraph (6)), by striking “system, together”
11 through the end thereof and inserting the following:
12 “system and the progress of the transition from the
13 loan programs under this part to the direct student
14 loan programs under part D of this title.”.

15 **SEC. 4026. ADMINISTRATIVE COST ALLOWANCE.**

16 Section 428(f)(1) of the Act is amended—

17 (1) in subparagraph (A), by striking “The Sec-
18 retary” and inserting “For a fiscal year prior to fis-
19 cal year 1994, the Secretary”; and

20 (2) in subparagraph (B), by inserting “prior to
21 fiscal year 1994” after “any fiscal year”.

22 **SEC. 4027. CONSOLIDATION LOANS.**

23 Section 428C of the Act is amended—

24 (1) by amending subsection (a)(3)(A) to read as
25 follows:

1 “(3) DEFINITION OF ELIGIBLE BORROWERS.—

2 (A) For the purpose of this section, the term ‘eligi-
3 ble borrower’ means a borrower who, at the time of
4 application for a consolidation loan is in repayment
5 status, or in a grace period preceding repayment, or
6 is a delinquent or defaulted borrower who will reen-
7 ter repayment through loan consolidation.”;

8 (2) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A)(ii), by insert-
11 ing “with income-sensitive repayment
12 terms” after “obtain a consolidation loan”;

13 (ii) by redesignating subparagraph
14 (E) as subparagraph (F); and

15 (iii) by inserting after subparagraph
16 (D) the following new subparagraph:

17 “(E) that the lender shall offer an income-
18 sensitive repayment schedule, established by the
19 lender in accordance with the regulations of the
20 Secretary, to the borrower of any consolidation
21 loan made by the lender on or after July 1,
22 1994; and”;

23 (B) in paragraph (4), by amending sub-
24 paragraph (C) to read as follows:

1 “(C)(i) provides that periodic installments
2 of principal need not be paid, but interest shall
3 accrue and be paid in accordance with clause
4 (ii), during any period for which the borrower
5 would be eligible for a deferral under section
6 428(b)(1)(M), and that any such period shall
7 not be included in determining the repayment
8 period pursuant to subsection (c)(2) of this sec-
9 tion; and

10 “(ii) provides that interest shall accrue and
11 be paid—

12 “(I) by the Secretary, in the case of
13 a consolidation loan that consolidated only
14 Federal Stafford Loans for which the stu-
15 dent borrower received an interest subsidy
16 under section 428; or

17 “(II) by the borrower, or capitalized,
18 in the case of a consolidation loan other
19 than one described in subclause (I);”;

20 (C) by adding at the end thereof the fol-
21 lowing new paragraph:

22 “(5) DIRECT LOANS.—In the event that a bor-
23 rower is unable to obtain a consolidation loan with
24 income-sensitive repayment terms acceptable to the
25 borrower from a lender with an agreement under

1 subsection (a)(1), the Secretary shall offer any such
2 borrower who applies for it, a direct consolidation
3 loan to be repaid pursuant to an EXCEL Account
4 under part D of this title, except that the Secretary
5 shall not offer such loans if, in his or her judgment,
6 the Department does not yet have the necessary
7 origination and servicing arrangements in place for
8 such loans.”; and

9 (3) in subsection (c)—

10 (A) in paragraph (1), by amending sub-
11 paragraphs (B) and (C) to read as follows:

12 “(B) A consolidation loan made before July 1,
13 1994, shall bear interest at an annual rate on the
14 unpaid principal balance of the loan that is equal to
15 the greater of—

16 “(i) the weighted average of the interest
17 rates on the loans consolidated, rounded to the
18 nearest whole percent; or

19 “(ii) 9 percent.

20 “(C) A consolidation loan made on or after July
21 1, 1994, shall bear interest at an annual rate on the
22 unpaid principal balance of the loan that is equal to
23 the weighted average of the interest rates on the
24 loans consolidated, rounded upward to the nearest
25 whole percent.”;

1 (B) in paragraph (2)(A)—

2 (i) in the matter preceding clause (i),
3 by striking out “income sensitive repay-
4 ment schedules. Such repayment terms”
5 and inserting in lieu thereof “income sen-
6 sitive repayment schedules, established by
7 the lender in accordance with the regula-
8 tions of the Secretary. Except as required
9 by such income sensitive repayment sched-
10 ules, or by the terms of repayment pursu-
11 ant to an EXCEL Account offered by the
12 Secretary under subsection (b)(5), such re-
13 payment terms”;

14 (ii) by redesignating clauses (i), (ii),
15 (iii), (iv), and (v) as clauses (ii), (iii), (iv),
16 (v), and (vi), respectively;

17 (iii) by inserting immediately preced-
18 ing clause (ii) (as redesignated by clause
19 (ii)) the following new clause:

20 “(i) is less than \$7,500, then such consoli-
21 dation loan shall be repaid in not more than 10
22 years;”; and

23 (iv) by adding a period at the end of
24 clause (vi) (as redesignated by clause (ii));

1 (C) by striking out subparagraph (B) of
2 paragraph (2); and

3 (D) by redesignating subparagraph (C) of
4 paragraph (2) as subparagraph (B); and

5 (E) in paragraph (3)(A), by inserting after
6 the subparagraph designation the following:
7 “except as required by the terms of repayment
8 pursuant to an EXCEL Account offered by the
9 Secretary under subsection (b)(5),”.

10 **SEC. 4028. STUDENT LOAN MARKETING ASSOCIATION.**

11 Section 439 of the Act is further amended by adding
12 at the end thereof the following new subsection:

13 “(s) TRANSITION STUDY.—The Secretaries of Edu-
14 cation and the Treasury shall prepare a study, to be com-
15 pleted within 6 months of the enactment of this provision,
16 which shall examine alternatives concerning the status, op-
17 erations, and purposes of the Association during and after
18 the transition from the Federal Family Education Loan
19 program to the Federal Direct Student Loan program.
20 Such study shall—

21 “(1) consider how best to meet the needs of
22 students and taxpayers;

23 “(2) reflect the need for the Association to
24 maintain liquidity and perform other functions for
25 the Federal Family Education Loan program during

1 the transition from such program to the Federal Di-
2 rect Student Loan program under part D of this
3 title, including additional duties as specified by the
4 Secretary of Education or the Secretary of the
5 Treasury;

6 “(3) consider any appropriate change to part D
7 of title VII, relating to the College Construction
8 Loan Insurance Association; and

9 “(4) be considered by the Secretaries of Edu-
10 cation and the Treasury in developing any legislative
11 proposals concerning any changes to the status of
12 the Association as a Government-sponsored enter-
13 prise or its duties under the Federal Family Edu-
14 cation Loan program.”.

15 **SEC. 4029. AMENDMENT TO THE BALANCED BUDGET AND**
16 **EMERGENCY DEFICIT CONTROL ACT OF 1985.**

17 The Balanced Budget and Emergency Deficit Control
18 Act of 1985 is amended—

19 (1) in section 252(c)(1)(B), by striking “guar-
20 anteed”;

21 (2) in section 256(b)—

22 (A) by striking the subsection designation
23 and heading and inserting the following:

24 “(b) EFFECT OF ORDERS ON STUDENT LOAN PRO-
25 GRAMS.—

1 “(1) FEDERAL FAMILY EDUCATION LOAN PRO-
2 GRAM.—(A)”;

3 (B) by redesignating paragraphs (2) and
4 (3) as subparagraphs (B) and (C), respectively,
5 and by indenting such subparagraphs by an ad-
6 ditional 2 ems spaces;

7 (C) in paragraph (1)(A) (as redesignated
8 in subparagraph (B)), by striking “described in
9 paragraphs (2) and (3)” and inserting “de-
10 scribed in subparagraphs (B) and (C)”;

11 (D) in paragraph (1)(B) (as redesignated
12 in subparagraph (C)), by redesignating sub-
13 paragraphs (A) and (B) as clauses (i) and (ii),
14 respectively; and

15 (E) by adding at the end thereof the fol-
16 lowing new paragraph:

17 “(2) FEDERAL DIRECT STUDENT LOAN PRO-
18 GRAM.—(A) Any reductions that are required to be
19 achieved from the Federal Direct Student Loan pro-
20 gram operated under part D of title IV of the High-
21 er Education Act of 1965 as a consequence of an
22 order issued pursuant to section 254, shall be
23 achieved only by the application of the measures de-
24 scribed in subparagraph (B).

1 “(B) For any loan made during the period be-
2 ginning on the date that an order issued under sec-
3 tion 254 takes effect with respect to a fiscal year,
4 and ending at the close of such fiscal year, the loan
5 fee that is authorized to be collected pursuant to
6 section 456(c) of such Act shall be increased by 0.50
7 percent.”.

8 **CHAPTER 3—EFFECTIVE DATES; STUDY**

9 **SEC. 4031. EFFECTIVE DATES.**

10 (a) **IN GENERAL.**—Except as otherwise provided in
11 this section, the amendments made by this subtitle shall
12 be effective upon enactment.

13 (b) **INCOME CONTINGENT REPAYMENT.**—The
14 amendments made by section 4023 of this Act shall be
15 effective for loans made in accordance with section 428
16 for periods of instruction beginning on or after July 1,
17 1993, or made on or after July 1, 1993, in the case of
18 loans made in accordance with section 428A, 428B, or
19 428C of the Act.

20 (c) **ADMINISTRATIVE COST ALLOWANCE.**—The
21 amendments made by section 4026 of this Act shall be
22 effective on October 1, 1994.

23 (d) **CONSOLIDATION LOANS.**—The amendments
24 made by section 4027 of this Act (other than the amend-
25 ment made by section 4027(2)(B)) shall be effective for

1 loans made in accordance with section 428C of the Act
2 or after July 1, 1994.

3 **SEC. 4032. STUDY OF INTERNAL REVENUE SERVICE COL-**
4 **LECTION OF STUDENT LOANS.**

5 (a) GENERAL RULE.—The Secretary of Education,
6 in consultation with the Secretary of the Treasury, shall
7 conduct a study of the feasibility of implementing a system
8 for the repayment of Federal student loans through wage
9 withholding or other means involving the Internal Revenue
10 Service. Such study shall include an examination of—

11 (1) whether the Internal Revenue Service could
12 implement such a system within its current re-
13 sources and without adversely affecting the ability of
14 the Internal Revenue Service to collect tax revenues,

15 (2) the cumulative impact on voluntary compli-
16 ance with the tax system of increased disclosure of
17 tax return information and increased Internal Reve-
18 nue Service involvement in nontax collection activi-
19 ties,

20 (3) the anticipated effect on the management of
21 Federal student loan collections and on borrower re-
22 payment of such loans, and

23 (4) the ability of the Internal Revenue Service
24 to effectively service student loans.

1 (b) RECOMMENDATIONS.—Not later than the date 6
2 months after the date of the enactment of this Act, the
3 Secretary of Education shall submit to the Congress a re-
4 port on the study conducted under subsection (a), together
5 with such legislative recommendations as such Secretary
6 may deem advisable.

7 **SEC. 4033. PREFERENCE OF COMMITTEE FOR IRS COLLEC-**
8 **TION MECHANISM.**

9 It is the sense of the Committee on Education and
10 Labor that—

11 (1) the Committee may not, consistent with its
12 jurisdiction under the Rules of the House of Rep-
13 resentatives, amend this Act to include provisions
14 providing for the collection of student loans pursu-
15 ant to the Internal Revenue Code of 1986 using the
16 Internal Revenue Service of the Department of the
17 Treasury;

18 (2) the Committee would support the amend-
19 ment of this Act to include such provisions, as well
20 as amendments to the Higher Education Act of
21 1965, in the manner proposed by H.R. _____ as
22 introduced on May 11, 1993; and

23 (3) the Committee recommends that the House
24 of Representatives consider and adopt such amend-
25 ments.

1 **Subtitle B—Cost Sharing by States**

2 **SEC. 4101. COST SHARING BY STATES.**

3 (a) AMENDMENT.—Section 428 of the Higher Edu-
4 cation Act of 1965 (20 U.S.C. 1001 et seq.) is amended
5 by adding at the end thereof the following new subsection:

6 “(n) STATE SHARE OF DEFAULT COSTS.—(1) In the
7 case of any State in which there are located any institu-
8 tions of higher education with cohort default rates that
9 exceed 20 percent, such State shall pay to the Secretary
10 an amount equal to—

11 “(A) the new loan volume attributable to all in-
12 stitutions in the State for the current fiscal year,
13 multiplied by

14 “(B) the percentage specified in paragraph (2),
15 multiplied by

16 “(C) the quotient of—

17 “(i) the sum of the amounts calculated
18 under paragraph (3) for each such institution
19 in the State, divided by

20 “(ii) the total amount of loan volume at-
21 tributable to current and former students of in-
22 stitutions located in that State entering repay-
23 ment in the period used to calculate the cohort
24 default rate.

1 “(2) For purposes of paragraph (1)(B), the percent-
2 age used shall be—

3 “(A) 12.5 percent for fiscal year 1995;

4 “(B) 20 percent for fiscal year 1996; and

5 “(C) 50 percent for fiscal year 1997 and suc-
6 ceeding fiscal years.

7 “(3) For purposes of paragraph (1)(C)(i), the
8 amount shall be determined by calculating for each insti-
9 tution the amount by which—

10 “(A) the amount of the loans received for at-
11 tendance by its current and former students who (i)
12 enter repayment during the fiscal year used for the
13 calculation of the cohort default rate, and (ii) de-
14 fault before the end of the following fiscal year; ex-
15 ceeds

16 “(B) 20 percent of the loans received for at-
17 tendance by all the current and former students who
18 enter repayment during the fiscal year used for the
19 calculation of the cohort default rate.

20 “(4) A State may charge a fee to an institution of
21 higher education that participates in the program under
22 this part and is located in that State according to a fee
23 structure, approved by the Secretary, that is based on the
24 institution’s cohort default rate and the State’s risk of loss
25 under this subsection. Such fee structure shall include a

1 process by which an institution with a high cohort default
2 rate is exempt from any fees under this paragraph if such
3 institution demonstrates to the satisfaction of the State
4 that exceptional mitigating circumstances, as determined
5 by the State and approved by the Secretary, contributed
6 to its cohort default rate.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall be effective on October 1, 1994.

9 **Subtitle C—ERISA Amendments**
10 **Relating to Group Health Plans**

11 **SEC. 4201. COORDINATION OF ERISA PREEMPTION RULES**
12 **WITH TITLE XIX PROVISIONS PROVIDING FOR**
13 **LIABILITY OF THIRD PARTIES.**

14 (a) IN GENERAL.—Paragraph (8) of section 514(b)
15 of the Employee Retirement Income Security Act of 1974
16 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

17 “(8)(A) Subsection (a) of this section shall not apply
18 to any State law to the extent necessary to permit the
19 State to comply with the following requirements for the
20 receipt of Federal financial assistance under title XIX of
21 the Social Security Act:

22 “(i) subparagraphs (A), (B), and (H) of section
23 1902(a)(25) of such Act (relating to third-party li-
24 ability) and section 1903(o) of such Act (relating to

1 medicaid as secondary payor), as in effect on Octo-
2 ber 1, 1993; and

3 “(ii) sections 1902(a)(45) and 1912 of such Act
4 (relating to assignment of rights of payment), as in
5 effect on May 12, 1993.

6 “(B) Paragraph (2)(B) shall not apply to any State
7 law to the extent necessary to permit the compliance of
8 the State with any of the requirements described in sub-
9 paragraph (A).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect October 1, 1993.

12 **SEC. 4202. CONTINUED COVERAGE OF COSTS OF A PEDI-**
13 **ATRIC VACCINE UNDER GROUP HEALTH**
14 **PLANS.**

15 (a) IN GENERAL.—Part 6 of subtitle B of title I of
16 the Employee Retirement Income Security Act of 1974
17 (29 U.S.C. 1161 et seq.) is amended by adding at the end
18 the following new section:

19 **“SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDI-**
20 **ATRIC VACCINE UNDER GROUP HEALTH**
21 **PLANS.**

22 “A group health plan may not reduce its coverage of
23 the costs of pediatric vaccines (as defined under section
24 2162 of the Public Health Service Act) below the coverage
25 it provided as of May 1, 1993.”.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents in section 1 of such Act is amended by adding after
3 the item relating to section 608 the following new item:

“Sec. 609. Continued coverage of costs of a pediatric vaccine under group
health plans.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to plan years begin-
6 ning after the date of the enactment of this Act.

7 **SEC. 4203. TEMPORARY RULES GOVERNING PREEMPTION**
8 **OF CERTAIN STATE LAWS.**

9 Paragraph (5) of section 514(b) of the Employee Re-
10 tirement Income Security Act of 1974 (29 U.S.C.
11 1144(b)(5)) is amended to read as follows:

12 “(5)(A)(i) Except as provided in clauses (ii) and (iii),
13 subsection (a) shall not apply to the Hawaii Prepaid
14 Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-
15 51).

16 “(ii) Nothing in clause (i) shall be construed to ex-
17 empt from subsection (a) any State tax law relating to
18 employee benefit plans.

19 “(iii) Notwithstanding clause (i), parts 1 and 4 of
20 this subtitle, and the preceding sections of this part to
21 the extent they govern matters which are governed by the
22 provisions of such parts 1 and 4, shall supersede the Ha-
23 waii Prepaid Health Care Act (as in effect on or after Jan-
24 uary 14, 1983), but the Secretary may enter into coopera-

1 tive arrangements under this subparagraph and section
2 506 with officials of the State of Hawaii to assist them
3 in effectuating the policies of provisions of such Act which
4 are superseded by such parts 1 and 4 and the preceding
5 sections of this part.

6 “(B)(i) Except as provided in clauses (ii) and (iii),
7 subsection (a) shall not apply to subtitle 2 of title 19 of
8 the Annotated Code of Maryland (relating to the Health
9 Services Cost Review Commission).

10 “(ii) Nothing in clause (i) shall be construed to ex-
11 empt from subsection (a)—

12 “(I) any State tax law relating to employee ben-
13 efit plans, or

14 “(II) any amendment of the provision referred
15 to in clause (i) enacted on or after May 12, 1993,
16 to the extent it provides for more than the effective
17 administration of such Act as in effect on such date.

18 “(iii) Notwithstanding clause (i), parts 1 and 4 of
19 this subtitle, and the preceding sections of this part to
20 the extent they govern matters which are governed by the
21 provisions of such parts 1 and 4, shall supersede the provi-
22 sion referred to in clause (i) (as in effect on or after May
23 12, 1993), but the Secretary may enter into cooperative
24 arrangements under this subparagraph and section 506
25 with officials of the State of Maryland to assist them in

1 effectuating the policies of such provision which are super-
2 seded by such parts 1 and 4 and the preceding sections
3 of this part.

4 “(C)(i) Except as provided in clauses (ii) and (iii),
5 subsection (a) shall not apply to the following provisions
6 of the law of the State of Minnesota:

7 “(I) section 295.52, Minnesota Statutes, as
8 amended in May 1993 by House File 1178 (relating
9 to receipts tax on providers);

10 “(II) section 19 of article 9 of the Minnesota
11 Health Right Act, as amended in May 1993 by
12 House File 1178 (relating to passthrough of 2 per-
13 cent gross receipts tax on providers); and

14 “(III) subdivision 2 of section 3 of article 1 of
15 such Act, article 7 of such Act, and section 1 of arti-
16 cle 3 of Minnesota House File 1178 and section 4
17 and all that follows through the end of such article
18 3, as enacted in May 1993 (relating to data collec-
19 tion).

20 “(ii) Nothing in clause (i) shall be construed to ex-
21 empt from subsection (a)—

22 “(I) any State tax law relating to employee ben-
23 efit plans (other than a provision described in clause
24 (i)), and

1 “(II) any amendment of any provision referred
2 to in clause (i) enacted on or after May 12, 1993,
3 to the extent it provides for more than the effective
4 administration of such provision as in effect on such
5 date.

6 “(iii) Notwithstanding clause (i), parts 1 and 4 of
7 this subtitle, and the preceding sections of this part to
8 the extent they govern matters which are governed by the
9 provisions of such parts 1 and 4, shall supersede the provi-
10 sions described in clause (i) (as in effect on or after May
11 12, 1993), but the Secretary may enter into cooperative
12 arrangements under this subparagraph and section 506
13 with officials of the State of Minnesota to assist them in
14 effectuating the policies of such provisions which are su-
15 perseded by such parts 1 and 4 and the preceding sections
16 of this part.

17 “(D)(i) Except as provided in clauses (ii), (iv), (v),
18 and (vii), subsection (a) shall not apply to the following
19 provisions of the law of the State of New York:

20 “(I) subdivisions 1(b) and 4(e) of section
21 2807–c of the Public Health Law (relating to 13
22 percent surcharge);

23 “(II) subdivision 1(c) of section 2807–c of the
24 Public Health Law (relating to uniform hospital
25 charges);

1 “(III) subdivision 2-a of section 2807-c of the
2 Public Health Law (relating to the variable sur-
3 charge for HMOs);

4 “(IV) subdivision 14 of section 2807-c of the
5 Public Health Law (relating to basic percentage al-
6 lowances for bad debt and charity care);

7 “(V) subdivision 14-b of section 2807-c of the
8 Public Health Law (relating to health care services
9 allowances);

10 “(VI) subdivision 14-c of section 2807-c of the
11 Public Health Law (relating to further allowances
12 for financially distressed hospitals); and

13 “(VII) section 18 of chapter 266 of the laws of
14 1986, as amended (relating to excess malpractice in-
15 surance adjustments).

16 “(ii) Except as provided in clause (iii), nothing in
17 clause (i) shall be construed to exempt from subsection
18 (a)—

19 “(I) any State tax law relating to employee ben-
20 efit plans, or

21 “(II) any provision referred to in clause (i) to
22 the extent that any law of the State of New York
23 appropriates amounts based on amounts collected by
24 the State under such provision for any purpose other

1 than carrying out the programs established under
2 the provisions described in clause (i).

3 “(iii) Notwithstanding clause (ii), subsection (a) shall
4 not apply to any provision of the law of the State of New
5 York to the extent that such provision constitutes—

6 “(I) an HMO surcharge of the type provided
7 for under subdivision 2-a of such section 2807-c (as
8 in effect on February 2, 1993), or

9 “(II) an allowance, of the type provided for
10 under the provisions referred to in clause (i) (as so
11 in effect), for bad debts, charity care, health care
12 services, or excess malpractice insurance,

13 but only if the law of such State appropriates amounts
14 based on and equivalent to amounts collected by the State
15 under such provision solely for the purpose of carrying out
16 one or more programs established under the provisions de-
17 scribed in clause (i).

18 “(iv) Subsection (a) shall apply to any provision of
19 the law of the State of New York to the extent that such
20 provision constitutes a surcharge of the type provided for
21 under subdivisions 1(b) and 4(e) of section 2807-c of the
22 Public Health Law of the State of New York (as in effect
23 on February 2, 1993) unless such provision provides for
24 use of amounts collected under such provision solely for

1 the purpose of carrying out one or more programs estab-
2 lished under the provisions described in clause (i).

3 “(v) Nothing in clause (i) shall be construed to ex-
4 empt from subsection (a) any amendment of any provision
5 referred to in clause (i) enacted on or after February 2,
6 1993, to the extent it provides for more than the effective
7 administration of such provisions as in effect on such date,
8 unless such amendment constitutes only a change in the
9 methodology of determining payments to hospitals and
10 would result in—

11 “(I) a surcharge described in clause (iii)(I) of
12 not more than 9 percent with respect to which the
13 requirements of clause (iii) are met,

14 “(II) an allowance described in clause (iii)(II)
15 which does not exceed in the aggregate a Statewide
16 average of not more than 10 percent and with re-
17 spect to which the requirements of clause (iii) are
18 met, or

19 “(III) a surcharge described in clause (iv) of
20 not more than 13 percent with respect to which the
21 requirements of clause (iv) are met.

22 “(vi) Subsection (a) shall not apply to any amend-
23 ment to chapter 2 of the laws of 1988 of the State of
24 New York, as amended, to the extent that such amend-

1 ment extends the period for which the provisions referred
2 to in clause (i) are in effect.

3 “(vii) Notwithstanding clause (i), parts 1 and 4 of
4 this subtitle, and the preceding sections of this part to
5 the extent they govern matters which are governed by the
6 provisions of such parts 1 and 4, shall supersede the provi-
7 sions described in clause (i) (as in effect on or after Feb-
8 ruary 2, 1993), but the Secretary may enter into coopera-
9 tive arrangements under this subparagraph and section
10 506 with officials of the State of New York to assist them
11 in effectuating the policies of such provisions which are
12 superseded by such parts 1 and 4 and the preceding sec-
13 tions of this part.

14 “(viii) The provisions of this subparagraph shall be
15 effective as of February 2, 1993.

16 “(E) This paragraph shall cease to be effective as of
17 May 12, 1995.”.

18 **TITLE V—COMMITTEE ON**
19 **ENERGY AND COMMERCE**
20 **Subtitle A—Medicare Program**

21 **SEC. 5000. REFERENCES IN SUBTITLE; TABLE OF CON-**
22 **TENTS OF SUBTITLE.**

23 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
24 cept as otherwise specifically provided, whenever in this
25 subtitle an amendment is expressed in terms of an amend-

1 ment to or repeal of a section or other provision, the ref-
 2 erence shall be considered to be made to that section or
 3 other provision of the Social Security Act.

4 (b) REFERENCES TO OBRA.—In this subtitle, the
 5 terms “OBRA–1986”, “OBRA–1987”, “OBRA–1989”,
 6 and “OBRA–1990” refer to the Omnibus Budget Rec-
 7 onciliation Act of 1986 (Public Law 99–509), the Omni-
 8 bus Budget Reconciliation Act of 1987 (Public Law 100–
 9 203), the Omnibus Budget Reconciliation Act of 1989
 10 (Public Law 101–239), and the Omnibus Budget Rec-
 11 onciliation Act of 1990 (Public Law 101–508), respec-
 12 tively.

13 (c) TABLE OF CONTENTS OF SUBTITLE.—The table
 14 of contents of this subtitle is as follows:

Sec. 5000. References in subtitle; table of contents of subtitle.

CHAPTER 1—PROVISIONS RELATING TO PART B

SUBCHAPTER A—PHYSICIANS’ SERVICES

- Sec. 5001. Reduction in default update for conversion factor for 1994.
- Sec. 5002. Reduction in performance standard rate of increase and increase in maximum reduction permitted in default update.
- Sec. 5003. Classification of primary care services as a separate category of services.
- Sec. 5004. Phased-in reduction in practice expense relative value units for certain services.
- Sec. 5005. Limitation on payment for the anesthesia care team.
- Sec. 5006. Basing payments for anesthesia services on actual time.
- Sec. 5007. Separate payment for interpretation of electrocardiograms.
- Sec. 5008. Payments for new physicians and practitioners.
- Sec. 5009. Geographic adjustment factors for medicare physicians’ services.
- Sec. 5010. Extra-billing limits.
- Sec. 5011. Relative values for pediatric services.
- Sec. 5012. Antigens under physician fee schedule.
- Sec. 5013. Administration of claims relating to physicians’ services.
- Sec. 5014. Miscellaneous and technical corrections.

SUBCHAPTER B—OUTPATIENT HOSPITAL SERVICES AND AMBULATORY
SURGICAL SERVICES

- Sec. 5021. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
- Sec. 5022. Extension of current reduction in payments for other costs of outpatient hospital services.
- Sec. 5023. 1-year freeze in ambulatory surgery rates.
- Sec. 5024. Eye or eye and ear hospitals.
- Sec. 5025. Extension of cap on payments for intraocular lenses.
- Sec. 5026. Miscellaneous and technical corrections.

SUBCHAPTER C—DURABLE MEDICAL EQUIPMENT

- Sec. 5031. Revisions to payment rules for durable medical equipment.
- Sec. 5032. Payment for parenteral and enteral nutrients, supplies, and equipment during 1994.
- Sec. 5033. Treatment of nebulizers and aspirators.
- Sec. 5034. Certification of suppliers.
- Sec. 5035. Prohibition against carrier forum shopping.
- Sec. 5036. Restrictions on certain marketing and sales activities.
- Sec. 5037. Kickback clarification.
- Sec. 5038. Beneficiary liability for noncovered services.
- Sec. 5039. Adjustments for inherent reasonableness.
- Sec. 5040. Payment for surgical dressings.
- Sec. 5041. Payments for tens devices.
- Sec. 5042. Miscellaneous and technical corrections.

SUBCHAPTER D—PART B PREMIUM

- Sec. 5051. Part B premium.

SUBCHAPTER E—OTHER PROVISIONS

- Sec. 5061. Payments for clinical diagnostic laboratory tests.
- Sec. 5062. Treatment of inpatients and provision of diagnostic and therapeutic X-ray services by rural health clinics and Federally qualified health centers.
- Sec. 5063. Application of mammography certification requirements.
- Sec. 5064. Extension of Alzheimer's disease demonstration.
- Sec. 5065. Oral cancer drugs.
- Sec. 5066. Extension of municipal health service demonstration projects.
- Sec. 5067. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
- Sec. 5068. Interest payments.
- Sec. 5069. Clarification of coverage of certified nurse-midwife services performed outside the maternity cycle.
- Sec. 5069A. Increase in, and study of, annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
- Sec. 5070. Miscellaneous and technical corrections.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

- Sec. 5071. Elimination of add-on for overhead of hospital-based home health agencies.
- Sec. 5072. Study and report on medicare GME payments.
- Sec. 5073. Medicare as secondary payer.

- Sec. 5074. Extension of self-referral ban to additional specified services.
 Sec. 5075. Reduction in payment for erythropoietin.
 Sec. 5076. Medicare hospital agreements with organ procurement organizations.
 Sec. 5077. Extension of waiver for Watts Health Foundation.
 Sec. 5078. Improved outreach for qualified medicare beneficiaries.
 Sec. 5079. Social health maintenance organizations.
 Sec. 5080. Peer review organizations.
 Sec. 5081. Hospice information to home health beneficiaries.
 Sec. 5082. Health maintenance organizations.
 Sec. 5083. Miscellaneous and technical corrections.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL
 INSURANCE POLICIES

- Sec. 5091. Standards for medicare supplemental insurance policies.

1 **CHAPTER 1—PROVISIONS RELATING TO**

2 **PART B**

3 **Subchapter A—Physicians’ Services**

4 **SEC. 5001. REDUCTION IN DEFAULT UPDATE FOR CONVER-**
 5 **SION FACTOR FOR 1994.**

6 Section 1848(d)(3)(A) (42 U.S.C. 1395w-
 7 4(d)(3)(A)) is amended—

8 (1) in clause (i), by striking “clause (iii)” and
 9 inserting “clauses (iii) and (iv)”, and

10 (2) by adding at the end the following new
 11 clause:

12 “(iv) ADJUSTMENT IN PERCENTAGE
 13 INCREASE FOR 1994.—In applying clause
 14 (i) for services (other than primary care
 15 services) furnished in 1994, the percentage
 16 increase in the appropriate update index
 17 shall be reduced by—

1 “(I) 3 percentage points for sur-
2 gical services (as defined for purposes
3 of subsection (j)(1)), and

4 “(II) 2 percentage points for
5 other services.”.

6 **SEC. 5002. REDUCTION IN PERFORMANCE STANDARD RATE**
7 **OF INCREASE AND INCREASE IN MAXIMUM**
8 **REDUCTION PERMITTED IN DEFAULT UP-**
9 **DATE.**

10 (a) REDUCTION IN PERFORMANCE STANDARD FAC-
11 TOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-
12 4(f)(2)(B)) is amended—

13 (1) by striking “and” at the end of clause (ii),
14 and

15 (2) by striking clause (iii) and inserting the fol-
16 lowing:

17 “(iii) for 1993 is 2 percentage points,

18 “(iv) for 1994 is 3½ percentage
19 points, and

20 “(v) for each succeeding year is 4 per-
21 centage points.”.

22 (b) INCREASE IN MAXIMUM REDUCTION PERMITTED
23 IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42
24 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

1 (1) in subclause (II), by striking “or 1995”,
2 and

3 (2) in subclause (III), by striking “3” and in-
4 sserting “5”.

5 **SEC. 5003. CLASSIFICATION OF PRIMARY CARE SERVICES**
6 **AS A SEPARATE CATEGORY OF SERVICES.**

7 (a) IN GENERAL.—Section 1848(j)(1) (42 U.S.C.
8 1395w-4(j)(1)) is amended by inserting “, primary care
9 services (as defined in section 1842(i)(4)),” after “Sec-
10 retary”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply—

13 (1) to volume performance standard rates of
14 increase established under section 1848(f) of the
15 Social Security Act for fiscal years beginning with
16 fiscal year 1994, and

17 (2) to updates in the conversion factors for phy-
18 sicians’ services established under section 1848(d) of
19 such Act for physicians’ services to be furnished in
20 calendar years beginning with 1996.

1 **SEC. 5004. PHASED-IN REDUCTION IN PRACTICE EXPENSE**
2 **RELATIVE VALUE UNITS FOR CERTAIN SERV-**
3 **ICES.**

4 (a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C.
5 1395w-4(c)(2)) is amended by adding at the end the fol-
6 lowing new subparagraph:

7 “(E) REDUCTION IN PRACTICE EXPENSE
8 RELATIVE VALUE UNITS FOR CERTAIN SERV-
9 ICES.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii), the Secretary shall reduce the practice
12 expense relative value units applied to serv-
13 ices described in clause (iii) furnished in—

14 “(I) 1994, by 25 percent of the
15 number by which the number of prac-
16 tice expense relative value units (de-
17 termined for 1994 without regard to
18 this subparagraph) exceeds the num-
19 ber of work relative value units deter-
20 mined for 1994,

21 “(II) 1995, by an additional 25
22 percent of such excess, and

23 “(III) 1996 and subsequent
24 years, by an additional 25 percent of
25 such excess.

1 “(ii) FLOOR ON REDUCTIONS.—The
2 practice expense relative value units for a
3 physicians’ service shall not be reduced
4 under this subparagraph to a number less
5 than 110 percent of the number of work
6 relative value units.

7 “(iii) SERVICES COVERED.—For pur-
8 poses of clause (i), the services described in
9 this clause are physicians’ services that are
10 not described in clause (iv) and for
11 which—

12 “(I) there are work relative value
13 units, and

14 “(II) the number of practice ex-
15 pense relative value units (determined
16 for 1994) exceeds 110 percent of the
17 number of work relative value units
18 (determined for such year).

19 “(iv) EXCLUDED SERVICES.—For
20 purposes of clause (iii), the services de-
21 scribed in this clause are—

22 “(I) anesthesia services,

23 “(II) radiology services, and

24 “(III) services which the Sec-
25 retary determines at least 75 percent

1 of which are provided under this title
2 in an office setting.”.

3 (b) DEVELOPMENT OF RESOURCE-BASED METH-
4 ODOLOGY FOR PRACTICE EXPENSES.—

5 (1) The Secretary of Health and Human Serv-
6 ices shall develop a methodology for implementing in
7 1997 a resource-based system for determining prac-
8 tice expense relative value units for each physician’s
9 service.

10 (2) The Secretary shall transmit a report by
11 June 30, 1996, on the methodology developed under
12 paragraph (1) to the Committees on Ways and
13 Means and Energy and Commerce of the House of
14 Representatives and the Committee on Finance of
15 the Senate. The report shall include a presentation
16 of data utilized in developing the methodology and
17 an explanation of the methodology.

18 **SEC. 5005. LIMITATION ON PAYMENT FOR THE ANESTHESIA**

19 **CARE TEAM.**

20 (a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDI-
21 CAL DIRECTION.—

22 (1) IN GENERAL.—Section 1848(a) (42 U.S.C.
23 1395w-4(a)), as amended by section 5008(a)(1), is
24 amended by adding at the end the following new
25 paragraph:

1 “(4) SPECIAL RULE FOR MEDICAL DIREC-
2 TION.—

3 “(A) IN GENERAL.—With respect to physi-
4 cians’ services furnished on or after January 1,
5 1994, and consisting of medical direction of
6 two, three, or four concurrent anesthesia cases,
7 the fee schedule amount to be applied shall not
8 exceed one-half of the amount described in sub-
9 paragraph (B).

10 “(B) AMOUNT.—The amount described in
11 this subparagraph, for a physician’s medical di-
12 rection of the performance of anesthesia serv-
13 ices, is the following percentage of the fee
14 schedule amount otherwise applicable under this
15 section if the anesthesia services were person-
16 ally performed by the physician alone:

17 “(i) For services furnished during
18 1994, 120 percent.

19 “(ii) For services furnished during
20 1995, 115 percent.

21 “(iii) For services furnished during
22 1996, 110 percent.

23 “(iv) For services furnished during
24 1997, 105 percent.

1 “(v) For services furnished after
2 1997, 100 percent.”.

3 (2) ELIMINATION OF REDUCTION FOR MEDICAL
4 DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—
5 Section 1842(b) (42 U.S.C. 1395u(b)) is amended
6 by striking paragraph (13).

7 (b) PAYMENT TO A CERTIFIED REGISTERED NURSE
8 ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—
9 Subparagraph (B) of section 1833(l)(4) (42 U.S.C.
10 1395l(l)(4)) is amended—

11 (1) in clause (i), by inserting “and before Janu-
12 ary 1, 1994,” after “1991,”;

13 (2) in clause (ii)—

14 (A) by adding “and” at the end of
15 subclause (II),

16 (B) by striking the comma at the end of
17 subclause (III) and inserting a period, and

18 (C) by striking subclauses (IV) through
19 (VII); and

20 (3) by adding at the end the following new
21 clause:

22 “(iii) In the case of services of a certified registered
23 nurse anesthetist who is medically directed by a physician
24 and that are furnished on or after January 1, 1994, the
25 fee schedule amount shall be one-half of the amount

1 described in section 1848(a)(4)(B) with respect to the
2 physician.”.

3 **SEC. 5006. BASING PAYMENTS FOR ANESTHESIA SERVICES**

4 **ON ACTUAL TIME.**

5 (a) PHYSICIANS’ SERVICES.—Section 1848(b)(2)(B)
6 (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at
7 the end the following: “For anesthesia services furnished
8 on or after January 1, 1994, the Secretary may not mod-
9 ify the methodology in effect as of January 1, 1993, for
10 determining the amount of time that may be billed for
11 such services under this section.”.

12 (b) SERVICES OF CERTIFIED REGISTERED NURSE
13 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.
14 1395l(l)(1)(B)) is amended by adding at the end the fol-
15 lowing: “For anesthesia services furnished on or after
16 January 1, 1994, the Secretary may not modify the meth-
17 odology in effect as of January 1, 1993, for determining
18 the amount of time that may be billed for such services
19 under this section.”.

20 **SEC. 5007. SEPARATE PAYMENT FOR INTERPRETATION OF**

21 **ELECTROCARDIOGRAMS.**

22 (a) IN GENERAL.—Paragraph (3) of section 1848(b)
23 (42 U.S.C. 1395w-4(b)) is amended to read as follows:

24 “(3) TREATMENT OF INTERPRETATION OF
25 ELECTROCARDIOGRAMS.—The Secretary—

1 “(A) shall make separate payment under
2 this section for the interpretation of electro-
3 cardiograms performed or ordered to be per-
4 formed as part of or in conjunction with a visit
5 to or a consultation with a physician, and

6 “(B) shall adjust the relative values estab-
7 lished for visits and consultations under sub-
8 section (c) so as not to include relative value
9 units for interpretations of electrocardiograms
10 in the relative value for visits and consulta-
11 tions.”.

12 (b) ASSURING BUDGET NEUTRALITY.—Section
13 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by
14 section 5004(a); is amended by adding at the end the fol-
15 lowing new subparagraph:

16 “(F) BUDGET NEUTRALITY ADJUST-
17 MENTS.—The Secretary—

18 “(i) shall reduce the relative values
19 for all services (other than anesthesia serv-
20 ices) established under this paragraph
21 (and, in the case of anesthesia services, the
22 conversion factor established by the Sec-
23 retary for such services) by such percent-
24 age as the Secretary determines to be nec-
25 essary so that, beginning in 1996, the

1 amendment made by section 5007(a) of
2 the Omnibus Budget Reconciliation Act of
3 1993 would not result in expenditures
4 under this section that exceed the amount
5 of such expenditures that would have been
6 made if such amendment had not been
7 made, and

8 “(ii) shall reduce the amounts deter-
9 mined under subsection (a)(2)(B)(ii)(I) by
10 such percentage as the Secretary deter-
11 mines to be required to assure that, taking
12 into account the reductions made under
13 clause (i), the amendment made by section
14 5007(a) of the Omnibus Budget Reconcili-
15 ation Act of 1993 would not result in ex-
16 penditures under this section in 1994 that
17 exceed the amount of such expenditures
18 that would have been made if such amend-
19 ment had not been made.”.

20 (c) CONFORMING AMENDMENTS.—Section 1848 (42
21 U.S.C. 1395w-4) is amended—

22 (1) in subsection (a)(2)(B)(ii)(I), by inserting
23 “and as adjusted under subsection (c)(2)(F)(ii)”
24 after “for 1994”;

1 (2) in subsection (c)(2)(A)(i), by adding at the
2 end the following: “Such relative values are subject
3 to adjustment under subparagraph (F)(i).”; and

4 (3) in subsection (i)(1)(B), by adding at the
5 end “including adjustments under subsection
6 (c)(2)(F),”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to services furnished on or after
9 January 1, 1994.

10 **SEC. 5008. PAYMENTS FOR NEW PHYSICIANS AND PRACTI-**
11 **TIONERS.**

12 (a) EQUAL TREATMENT OF NEW PHYSICIANS AND
13 PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C.
14 1395w-4(a)) is amended by striking paragraph (4).

15 (2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is
16 amended by striking subparagraph (F).

17 (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-
18 standing any other provision of law, the Secretary of
19 Health and Human Services shall reduce the following val-
20 ues and amounts for 1994 (to be applied for that year
21 and subsequent years) by such uniform percentage as the
22 Secretary determines to be required to assure that the
23 amendments made by subsection (a) will not result in ex-
24 penditures under part B of title XVIII of the Social Secu-
25 rity Act in 1994 that exceed the amount of such expendi-

1 tures that would have been made if such amendments had
2 not been made:

3 (1) The relative values established under section
4 1848(c) of such Act for services (other than anesthe-
5 sia services) and, in the case of anesthesia services,
6 the conversion factor established under section 1848
7 of such Act for such services.

8 (2) The amounts determined under section
9 1848(a)(2)(B)(ii)(I) of such Act.

10 (3) The prevailing charges or fee schedule
11 amounts to be applied under such part for services
12 of a health care practitioner (as defined in section
13 1842(b)(4)(F)(ii)(I) of such Act, as in effect before
14 the date of the enactment of this Act).

15 (c) CONFORMING AMENDMENTS.—Section 1848 (42
16 U.S.C. 1395w-4), as amended by section 5007(c), is
17 amended—

18 (1) in subsection (a)(2)(B)(ii)(I), by inserting
19 “and section 5008(b) of the Omnibus Budget Rec-
20 onciliation Act of 1993” after “(c)(2)(F)(ii)”;

21 (2) in subsection (c)(2)(A)(i), by inserting “and
22 section 5008(b) of the Omnibus Budget Reconcili-
23 ation Act of 1993” after “under subparagraph
24 (F)(i)”;

1 (3) in subsection (i)(1)(B), by inserting “and
2 section 5008(b) of the Omnibus Budget Reconcili-
3 ation Act of 1993” after “under subsection
4 (c)(2)(F)”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall apply to services furnished on or after
7 January 1, 1994.

8 **SEC. 5009. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDI-**
9 **CARE PHYSICIANS’ SERVICES.**

10 (a) REQUIRING CONSULTATION WITH REPRESENTA-
11 TIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC AD-
12 JUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C.
13 1395w–4(e)(1)(C)) is amended by striking “shall review”
14 and inserting “shall, in consultation with appropriate rep-
15 resentatives of physicians, review”.

16 (b) USE OF MOST RECENT DATA IN GEOGRAPHIC
17 ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–
18 4(e)(1)) is amended by adding at the end the following
19 new subparagraph:

20 “(D) USE OF RECENT DATA.—In estab-
21 lishing indices and index values under this
22 paragraph, the Secretary shall use the most re-
23 cent data available relating to practice ex-
24 penses, malpractice expenses, and physician
25 work effort in different fee schedule areas.”.

1 (c) DEADLINE FOR INITIAL REVIEW AND REVI-
2 SION.—The Secretary of Health and Human Services
3 shall first review and revise geographic adjustment factors
4 under section 1848(e)(1)(C) of the Social Security Act by
5 not later than January 1, 1995.

6 (d) REPORT ON REVIEW PROCESS.—Not later than
7 1 year after the date of the enactment of this Act, the
8 Secretary of Health and Human Services shall study and
9 report to the Committee on Finance of the Senate and
10 the Committee on Ways and Means and the Committee
11 on Energy and Commerce of the House of Representatives
12 on—

13 (1) the data necessary to review and revise the
14 indices established under section 1848(e)(1)(A) of
15 the Social Security Act, including—

16 (A) the shares allocated to physicians'
17 work effort, practice expenses (other than mal-
18 practice expenses), and malpractice expenses;

19 (B) the weights assigned to the input com-
20 ponents of such shares; and

21 (C) the index values assigned to such com-
22 ponents;

23 (2) any limitations on the availability of data
24 necessary to review and revise such indices at least
25 every three years;

1 (3) ways of addressing such limitations, with
2 particular attention to the development of alternative
3 data sources for input components for which current
4 index values are based on data collected less fre-
5 quently than every three years; and

6 (4) the costs of developing more accurate and
7 timely data.

8 **SEC. 5010. EXTRA-BILLING LIMITS.**

9 (a) ENFORCEMENT AND UNIFORM APPLICATION.—

10 (1) ENFORCEMENT.—Paragraph (1) of section
11 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read
12 as follows:

13 “(1) LIMITATION ON ACTUAL CHARGES.—

14 “(A) IN GENERAL.—In the case of a
15 nonparticipating physician or nonparticipating
16 supplier or other person (as defined in section
17 1842(i)(2)) who does not accept payment on an
18 assignment-related basis for a physician’s serv-
19 ice furnished with respect to an individual en-
20 rolled under this part, the following rules apply:

21 “(i) APPLICATION OF LIMITING
22 CHARGE.—No person may bill or collect an
23 actual charge for the service in excess of
24 the limiting charge described in paragraph
25 (2) for such service.

1 “(ii) No LIABILITY FOR EXCESS
2 CHARGES.—No person is liable for pay-
3 ment of any amounts billed for the service
4 in excess of such limiting charge.

5 “(iii) CORRECTION OF EXCESS
6 CHARGES.—If such a physician, supplier,
7 or other person bills, but does not collect,
8 an actual charge for a service in violation
9 of clause (i), the physician, supplier, or
10 other person shall reduce on a timely basis
11 the actual charge billed for the service to
12 an amount not to exceed the limiting
13 charge for the service.

14 “(iv) REFUND OF EXCESS COLLEC-
15 TIONS.—If such a physician, supplier, or
16 other person collects an actual charge for
17 a service in violation of clause (i), the phy-
18 sician, supplier, or other person shall pro-
19 vide on a timely basis a refund to the indi-
20 vidual charged in the amount by which the
21 amount collected exceeded the limiting
22 charge for the service. The amount of such
23 a refund shall be reduced to the extent the
24 individual has an outstanding balance owed
25 by the individual to the physician.

1 “(B) SANCTIONS.—If a physician, supplier,
2 or other person—

3 “(i) knowingly and willfully bills or
4 collects for services in violation of subpara-
5 graph (A)(i) on a repeated basis, or

6 “(ii) fails to comply with clause (iii)
7 or (iv) of subparagraph (A) on a timely
8 basis,

9 the Secretary may apply sanctions against the
10 physician, supplier, or other person in accord-
11 ance with paragraph (2) of section 1842(j). In
12 applying this subparagraph, paragraph (4) of
13 such section applies in the same manner as
14 such paragraph applies to such section and any
15 reference in such section to a physician is
16 deemed also to include a reference to a supplier
17 or other person under this subparagraph.

18 “(C) TIMELY BASIS.—For purposes of this
19 paragraph, a correction of a bill for an excess
20 charge or refund of an amount with respect to
21 a violation of subparagraph (A)(i) in the case of
22 a service is considered to be provided ‘on a
23 timely basis’, if the reduction or refund is made
24 not later than 30 days after the date the physi-
25 cian, supplier, or other person is notified by the

1 carrier under this part of such violation and of
2 the requirements of subparagraph (A).”.

3 (2) UNIFORM APPLICATION OF EXTRA-BILLING
4 LIMITS TO PHYSICIANS’ SERVICES.—

5 (A) IN GENERAL.—Section 1848(g)(2)(C)
6 (42 U.S.C. 1395w-4(g)(2)(C)) is amended by
7 inserting “or for nonparticipating suppliers or
8 other persons” after “nonparticipating physi-
9 cians”.

10 (B) CONFORMING DEFINITION.—Section
11 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amend-
12 ed—

13 (i) by striking “, and the term” and
14 inserting “; the term”, and

15 (ii) by inserting before the period at
16 the end the following: “; and the term
17 ‘nonparticipating supplier or other person’
18 means a supplier or other person (exclud-
19 ing a provider of services) that is not a
20 participating physician or supplier (as de-
21 fined in subsection (h)(1))”.

22 (3) ADDITIONAL CONFORMING AMENDMENTS.—
23 Section 1848 (42 U.S.C. 1395w-4) is amended—

24 (A) in subsection (a)(3)—

1 (i) by inserting “AND SUPPLIERS”
2 after “PHYSICIANS”,

3 (ii) by inserting “or a
4 nonparticipating supplier or other person”
5 after “nonparticipating physician”, and

6 (iii) by adding at the end the follow-
7 ing: “In the case of physicians’ services
8 (including services which the Secretary ex-
9 cludes pursuant to subsection (j)(3)) of a
10 nonparticipating physician, supplier, or
11 other person for which payment is made
12 under this part on a basis other than the
13 fee schedule amount, the payment shall be
14 based on 95 percent of the payment basis
15 for such services furnished by a participat-
16 ing physician, supplier, or other person.”;

17 (B) in subsection (g)(1)(A), as amended by
18 subsection (a), in the matter before clause (i),
19 by inserting “(including services which the Sec-
20 retary excludes pursuant to subsection (j)(3))”
21 after “a physician’s service”;

22 (C) in subsection (g)(2)(D), by inserting
23 “(or, if payment under this part is made on a
24 basis other than the fee schedule under this sec-

1 tion, 95 percent of the other payment basis)”
2 after “subsection (a)”;

3 (D) in subsection (g)(3)(B)—

4 (i) by inserting after the first sentence
5 the following: “No person is liable for pay-
6 ment of any amounts billed for such a
7 service in violation of the previous sen-
8 tence.”, and

9 (ii) in the last sentence, by striking
10 “previous sentence” and inserting “first
11 sentence”;

12 (E) in subsection (h)—

13 (i) by inserting “or nonparticipating
14 supplier or other person furnishing physi-
15 cians’ services (as defined in section
16 1848(j)(3))” after “physician” the first
17 place it appears,

18 (ii) by inserting “, supplier, or other
19 person” after “physician” the second place
20 it appears, and

21 (iii) by inserting “, suppliers, and
22 other persons” after “physicians” the sec-
23 ond place it appears; and

1 (F) in subsection (j)(3), by inserting “, ex-
2 cept for purposes of subsections (a)(3), (g), and
3 (h)” after “tests and”.

4 (b) CLARIFICATION OF MANDATORY ASSIGNMENT
5 RULES FOR CERTAIN PRACTITIONERS.—

6 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.
7 1395u(b)), as amended by section 5014(e), is
8 amended by adding at the end the following new
9 paragraph:

10 “(18)(A) Payment for any service furnished by a
11 practitioner described in subparagraph (C) and for which
12 payment may be made under this part on a reasonable
13 charge or fee schedule basis may only be made under this
14 part on an assignment-related basis.

15 “(B) A practitioner described in subparagraph (C) or
16 other person may not bill (or collect any amount from)
17 the individual or another person for any service described
18 in subparagraph (A), except for deductible and coinsur-
19 ance amounts applicable under this part. No person is lia-
20 ble for payment of any amounts billed for such a service
21 in violation of the previous sentence. If a practitioner or
22 other person knowingly and willfully bills (or collects an
23 amount) for such a service in violation of such sentence,
24 the Secretary may apply sanctions against the practitioner
25 or other person in the same manner as the Secretary may

1 apply sanctions against a physician in accordance with
2 section 1842(j)(2) in the same manner as such section ap-
3 plies with respect to a physician. Paragraph (4) of section
4 1842(j) shall apply in this subparagraph in the same man-
5 ner as such paragraph applies to such section.

6 “(C) A practitioner described in this subparagraph
7 is any of the following:

8 “(i) A physician assistant, nurse practitioner, or
9 clinical nurse specialist (as defined in section
10 1861(aa)(5)).

11 “(ii) A certified registered nurse anesthetist (as
12 defined in section 1861(bb)(2)).

13 “(iii) A certified nurse-midwife (as defined in
14 section 1861(gg)(2)).

15 “(iv) A clinical social worker (as defined in sec-
16 tion 1861(hh)(1)).

17 “(v) A clinical psychologist (as defined by the
18 Secretary for purposes of section 1861(ii)).

19 “(D) For purposes of this paragraph, a service fur-
20 nished by a practitioner described in subparagraph (C) in-
21 cludes any services and supplies furnished as incident to
22 the service as would otherwise be covered under this part
23 if furnished by a physician or as incident to a physician’s
24 service.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 1833 (42 U.S.C. 1395l) is
2 amended—

3 (i) in subsection (l)(5), by striking
4 subparagraph (B) and redesignating sub-
5 paragraph (C) as subparagraph (B);

6 (ii) by striking subsection (p); and

7 (iii) in subsection (r), by striking
8 paragraph (3) and redesignating para-
9 graph (4) as paragraph (3).

10 (B) Section 1842(b)(12) (42 U.S.C.
11 1395u(b)(12)) is amended by striking subpara-
12 graph (C).

13 (c) INFORMATION ON EXTRA-BILLING LIMITS.—

14 (1) PART OF EXPLANATION OF MEDICARE BEN-
15 EFITS.—Section 1842(h)(7) (42 U.S.C.
16 1395u(h)(7)) is amended—

17 (A) by striking “and” at the end of sub-
18 paragraph (B),

19 (B) in subparagraph (C), by striking “shall
20 include”,

21 (C) in subparagraph (C), by striking the
22 period at the end and inserting “, and”, and

23 (D) by adding at the end the following new
24 subparagraph:

1 “(D) in the case of services for which the billed
2 amount exceeds the limiting charge imposed under
3 section 1848(g), information regarding such applica-
4 ble limiting charge (including information concern-
5 ing the right to a refund under section
6 1848(g)(1)(A)(iv)).”.

7 (2) DETERMINATIONS BY CARRIERS.—Subpara-
8 graph (G) of section 1842(b)(3) (42 U.S.C.
9 1395u(b)(3)) is amended to read as follows:

10 “(G) will, for a service that is furnished with
11 respect to an individual enrolled under this part,
12 that is not paid on an assignment-related basis, and
13 that is subject to a limiting charge under section
14 1848(g)—

15 “(i) determine, prior to making payment,
16 whether the amount billed for such service ex-
17 ceeds the limiting charge applicable under sec-
18 tion 1848(g)(2);

19 “(ii) notify the physician, supplier, or other
20 person periodically (but not less often than once
21 every 30 days) of determinations that amounts
22 billed exceeded such applicable limiting charges;
23 and

24 “(iii) provide for prompt response to in-
25 quiries of physicians, suppliers, and other per-

1 sons concerning the accuracy of such limiting
2 charges for their services;”.

3 (d) REPORT ON CHARGES IN EXCESS OF LIMITING
4 CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-
5 4(g)(6)(B)) is amended by inserting “the extent to which
6 actual charges exceed limiting charges, the number and
7 types of services involved, and the average amount of ex-
8 cess charges and” after “report to the Congress”.

9 (e) MISCELLANEOUS AND TECHNICAL AMEND-
10 MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

11 (1) in subsection (a)(1), as amended by section
12 5070(e)(2)—

13 (A) by striking “and” before “(O)”, and

14 (B) by inserting before the semicolon at
15 the end the following: “, and (P) with respect
16 to services described in clauses (i), (ii) and (iv)
17 of section 1861(s)(2)(K), the amounts paid are
18 subject to the provisions of section
19 1842(b)(12)”;

20 (2) in subsection (h)(5)(D)—

21 (A) by striking “paragraphs (2) and (3)”
22 and by inserting “paragraph (2)”, and

23 (B) by adding at the end the following:
24 “Paragraph (4) of such section shall apply in

1 this subparagraph in the same manner as such
2 paragraph applies to such section.”.

3 (f) EFFECTIVE DATES.—

4 (1) ENFORCEMENT AND UNIFORM APPLICA-
5 TION; MISCELLANEOUS AND TECHNICAL AMEND-
6 MENTS.—The amendments made by subsections (a)
7 and (e) shall apply to services furnished on or after
8 the date of the enactment of this Act; except that
9 the amendments made by subsection (a) shall not
10 apply to services of a nonparticipating supplier or
11 other person furnished before January 1, 1994.

12 (2) PRACTITIONERS.—The amendments made
13 by subsection (b) shall apply to services furnished on
14 or after January 1, 1994.

15 (3) EOMBS.—The amendments made by sub-
16 section (c)(1) shall apply to explanations of benefits
17 provided on or after January 1, 1994.

18 (4) CARRIER DETERMINATIONS.—The amend-
19 ments made by subsection (c)(2) shall apply to con-
20 tracts as of January 1, 1994.

21 (5) REPORT.—The amendment made by sub-
22 section (d) shall apply to reports for years beginning
23 with 1994.

1 **SEC. 5011. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

2 (a) IN GENERAL.—The Secretary of Health and
3 Human Services shall fully develop, by not later than July
4 1, 1994, relative values for the full range of pediatric phy-
5 sicians' services which are consistent with the relative val-
6 ues developed for other physicians' services under section
7 1848(c) of the Social Security Act. In developing such val-
8 ues, the Secretary shall conduct such refinements as may
9 be necessary to produce appropriate estimates for such rel-
10 ative values.

11 (b) STUDY.—

12 (1) IN GENERAL.—The Secretary shall conduct
13 a study of the relative values for pediatric and other
14 services to determine whether there are significant
15 variations in the resources used in providing similar
16 services to different populations. In conducting such
17 study, the Secretary shall consult with appropriate
18 organizations representing pediatricians and other
19 physicians and physical and occupational therapists.

20 (2) REPORT.—Not later than July 1, 1994, the
21 Secretary shall submit to Congress a report on the
22 study conducted under paragraph (1). Such report
23 shall include any appropriate recommendations re-
24 garding needed changes in coding or other payment
25 policies to ensure that payments for pediatric serv-

1 ices appropriately reflect the resources required to
2 provide these services.

3 **SEC. 5012. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.**

4 (a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C.
5 1395w-4(j)(3)) is amended by inserting “(2)(G),” after
6 “(2)(D),”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to services furnished on or after
9 January 1, 1994.

10 **SEC. 5013. ADMINISTRATION OF CLAIMS RELATING TO PHY-**
11 **SICIANS’ SERVICES.**

12 (a) LIMITATION ON CARRIER USER FEES.—Section
13 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at
14 the end the following new paragraph:

15 “(4) Neither a carrier nor the Secretary may impose
16 a fee under this title—

17 “(A) for the filing of claims related to physi-
18 cians’ services,

19 “(B) for an error in filing a claim relating to
20 physicians’ services or for such a claim which is de-
21 nied,

22 “(C) for any appeal under this title with respect
23 to physicians’ services,

24 “(D) for applying for (or obtaining) a unique
25 identifier under subsection (r), or

1 “(E) for responding to inquiries respecting phy-
2 sicians’ services or for providing information with re-
3 spect to medical review of such services.”.

4 (b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE
5 BILLING ARRANGEMENTS.—

6 (1) IN GENERAL.—Clause (D) of section
7 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to
8 read as follows: “(D) payment may be made to a
9 physician for physicians’ services (and services fur-
10 nished incident to such services) furnished by a sec-
11 ond physician to patients of the first physician if (i)
12 the first physician is unavailable to provide the serv-
13 ices; (ii) the services are furnished pursuant to an
14 arrangement between the two physicians that (I) is
15 informal and reciprocal, or (II) involves per diem or
16 other fee-for-time compensation for such services;
17 (iii) the services are not provided by the second phy-
18 sician over a continuous period of more than 60
19 days; and (iv) the claim form submitted to the car-
20 rier for such services includes the second physician’s
21 unique identifier (provided under the system estab-
22 lished under subsection (r)) and indicates that the
23 claim meets the requirements of this clause for pay-
24 ment to the first physician”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to services furnished on
3 or after the first day of the first month beginning
4 more than 60 days after the date of the enactment
5 of this Act.

6 **SEC. 5014. MISCELLANEOUS AND TECHNICAL CORREC-**
7 **TIONS.**

8 (a) OVERVALUED PROCEDURES (SECTION 4101 OF
9 OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42
10 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

- 11 (A) by striking “, simple and subcutaneous”,
12 (B) by striking “; small” and inserting “and
13 small”,
14 (C) by striking “treatments;” the first place it
15 appears and inserting “and”,
16 (D) by striking “lobectomy;”,
17 (E) by striking “enterectomy; colectomy; chole-
18 cystectomy;”,
19 (F) by striking “; transurethral resection”
20 and inserting “and resection”, and
21 (G) by striking “sacral laminectomy;”.

22 (2) Section 4101(b)(2) of OBRA–1990 is amended—
23 (A) in the matter before subparagraph (A), by
24 striking “1842(b)(16)” and inserting
25 “1842(b)(16)(B)”, and

1 (B) in subparagraph (B)—

2 (i) by striking “, simple and subcutane-
3 ous”,

4 (ii) by striking “(HCPCS codes 19160 and
5 19162)” and inserting “(HCPCS code 19160)”,
6 and

7 (iii) by striking all that follows “(HCPCS
8 codes 92250” and inserting “and 92260).”.

9 (b) RADIOLOGY SERVICES (SECTION 4102 OF
10 OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C.
11 1395m(b)(4)) is amended by redesignating subparagraphs
12 (E) and (F) as subparagraphs (F) and (G), respectively.

13 (2) Section 1834(b)(4)(D) (42 U.S.C.
14 1395m(b)(4)(D)) is amended—

15 (A) in the matter before clause (i), by striking
16 “shall be determined as follows:” and inserting
17 “shall, subject to clause (vii), be reduced to the ad-
18 justed conversion factor for the locality determined
19 as follows:”,

20 (B) in clause (iv), by striking “LOCAL ADJUST-
21 MENT.—Subject to clause (vii), the conversion factor
22 to be applied to” and inserting “ADJUSTED CONVER-
23 SION FACTOR.—The adjusted conversion factor for”,

24 (C) in clause (vii), by striking “under this sub-
25 paragraph”, and

1 (D) in clause (vii), by inserting “reduced under
2 this subparagraph by” after “shall not be”.

3 (3) Section 4102(c)(2) of OBRA-1990 is amended
4 by striking “radiology services” and all that follows and
5 inserting “nuclear medicine services.”.

6 (4) Section 4102(d) of OBRA-1990 is amended by
7 striking “new paragraph” and inserting “new subpara-
8 graph”.

9 (5) Section 1834(b)(4)(E) (42 U.S.C.
10 1395m(b)(4)(E)) is amended by inserting “RULE FOR
11 CERTAIN SCANNING SERVICES.—” after “(E)”.

12 (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-
13 4(a)(2)(D)(iii)) is amended by striking “that are subject
14 to section 6105(b) of the Omnibus Budget Reconciliation
15 Act of 1989” and by striking “provided under such sec-
16 tion” and inserting “provided under section 6105(b) of the
17 Omnibus Budget Reconciliation Act of 1989”.

18 (c) ANESTHESIA SERVICES (SECTION 4103 OF
19 OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is
20 amended by striking “REDUCTION IN FEE SCHEDULE”
21 and inserting “REDUCTION IN PREVAILING CHARGES”.

22 (2) Section 1842(q)(1)(B) (42 U.S.C.
23 1395u(q)(1)(B)) is amended—

24 (A) in the matter before clause (i), by striking
25 “shall be determined as follows:” and inserting

1 “shall, subject to clause (iv), be reduced to the ad-
2 justed prevailing charge conversion factor for the lo-
3 cality determined as follows:”, and

4 (B) in clause (iii), by striking “Subject to
5 clause (iv), the prevailing charge conversion factor to
6 be applied in” and inserting “The adjusted prevail-
7 ing charge conversion factor for”.

8 (d) ASSISTANTS AT SURGERY (SECTION 4107 OF
9 OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is
10 amended by inserting “(a)(1)” after “subsection”.

11 (2) Section 4107(a)(2) of OBRA-1990 is amended
12 by adding at the end the following: “In applying section
13 1848(g)(2)(D) of the Social Security Act for services of
14 an assistant-at-surgery furnished during 1991, the recog-
15 nized payment amount shall not exceed the maximum
16 amount specified under section 1848(i)(2)(A) of such Act
17 (as applied under this paragraph in such year).”.

18 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-
19 ICES (SECTION 4108 OF OBRA-1990).—Section 1842(b)
20 (42 U.S.C. 1395u(b)) is amended by redesignating para-
21 graph (18), as added by section 4108(a) of OBRA-1990,
22 as paragraph (17) and, in such paragraph, by inserting
23 “, tests specified in paragraph (14)(C)(i),” after “diag-
24 nostic laboratory tests”.

1 (f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF
2 OBRA-1990).—Section 4117 of OBRA-1990 is amend-
3 ed—

4 (1) in subsection (a)—

5 (A) by striking “(a) IN GENERAL.—”, and

6 (B) by striking “, if the” and all that fol-
7 lows through “1991, ”; and

8 (2) by striking subsections (b), (c), and (d).

9 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF
10 SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF
11 OBRA-1990).—Section 4113 of OBRA-1990 is amend-
12 ed—

13 (1) by inserting “of the Social Security Act”
14 after “1869(b)(2)”; and

15 (2) by striking “December 31, 1992” and in-
16 serting “December 31, 1993”.

17 (h) OTHER MISCELLANEOUS AND TECHNICAL
18 AMENDMENTS.—(1) The heading of section 1834(f) (42
19 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

20 (2)(A) Section 4105(b) of OBRA-1990 is amended—

21 (i) in paragraph (2), by striking “amendments”
22 and inserting “amendment”, and

23 (ii) in paragraph (3), by striking “amendments
24 made by paragraphs (1) and (2)” and inserting
25 “amendment made by paragraph (1)”.

1 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-
2 4(f)(2)(C)) is amended by inserting “PERFORMANCE
3 STANDARD RATES OF INCREASE FOR FISCAL YEAR
4 1991.—” after “(C)”.

5 (C) Section 4105(d) of OBRA-1990 is amended by
6 inserting “PUBLICATION OF PERFORMANCE STANDARD
7 RATES.—” after “(d)”.

8 (3) Section 1842(b)(4)(F) (42 U.S.C.
9 1395u(b)(4)(F)) is amended—

10 (A) in clause (i), by striking “prevailing
11 charge” the first place it appears and inserting
12 “customary charge”; and

13 (B) in clause (ii)(III), by striking “second,
14 third, and fourth” and inserting “first, second, and
15 third”.

16 (4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C.
17 1395u(b)(4)(F)(ii)(I)) is amended by striking “respiratory
18 therapist,”.

19 (5) Section 4106(c) of OBRA-1990 is amended by
20 inserting “of the Social Security Act” after
21 “1848(d)(1)(B)”.

22 (6) Section 4114 of OBRA-1990 is amended by
23 striking “patients” the second place it appears.

1 (7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-
2 4(e)(1)(C)) is amended by inserting “date of the” after
3 “since the”.

4 (8) Section 4118(f)(1)(D) of OBRA-1990 is amend-
5 ed by striking “is amended”.

6 (9) Section 4118(f)(1)(N)(ii) of OBRA-1990 is
7 amended by striking “subsection (f)(5)(A)” and inserting
8 “subsection (f)(5)(A)”.

9 (10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is
10 amended—

11 (A) by striking paragraph (2); and

12 (B) by redesignating paragraphs (3), (4), and
13 (5) as paragraphs (2), (3), and (4).

14 (11) Section 4118(j)(2) of OBRA-1990 is amended
15 by striking “In section” and inserting “Section”.

16 (12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-
17 4(i)(3)) is amended by striking the space before the period
18 at the end.

19 (B) Section 1834(a)(10)(B) (42 U.S.C.
20 1395m(a)(10)(B)) is amended by striking “as such provi-
21 sions apply to physicians’ services and physicians and a
22 reasonable charge under section 1842(b)”.

23 (i) OTHER CORRECTIONS.—(1) Effective on the date
24 of the enactment of this Act, section 6102(d)(4) of

1 OBRA-1989 is amended by striking all that follows the
2 first sentence.

3 (2) Effective for payments for fiscal years beginning
4 with fiscal year 1994, section 1842(c)(1) (42 U.S.C.
5 1395u(c)(1)) is amended—

6 (A) in subparagraph (A), by striking “(A) Any
7 contract” and inserting “Any contract”; and

8 (B) by striking subparagraph (B).

9 (j) EFFECTIVE DATE.—Except as provided in sub-
10 section (i), the amendments made by this section and the
11 provisions of this section shall take effect as if included
12 in the enactment of OBRA-1990.

13 **Subchapter B—Outpatient Hospital Services**
14 **and Ambulatory Surgical Services**

15 **SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAY-**
16 **MENTS FOR CAPITAL-RELATED COSTS OF**
17 **OUTPATIENT HOSPITAL SERVICES.**

18 Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.
19 1395x(v)(1)(S)(ii)(I)) is amended by striking “fiscal year
20 1992, 1993, 1994, or 1995” and inserting “fiscal years
21 1992 through 1998”.

1 **SEC. 5022. EXTENSION OF CURRENT REDUCTION IN PAY-**
2 **MENTS FOR OTHER COSTS OF OUTPATIENT**
3 **HOSPITAL SERVICES.**

4 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.
5 1395x(v)(1)(S)(ii)(II)) is amended by striking “1991” and
6 all that follows and inserting “1991 through 1998.”.

7 **SEC. 5023. 1-YEAR FREEZE IN AMBULATORY SURGERY**
8 **RATES.**

9 The Secretary of Health and Human Services shall
10 not provide for any update in the amounts of payment
11 described in paragraphs (2)(A) and (2)(B) of section
12 1833(i)(2) of the Social Security Act that otherwise would
13 occur in fiscal year 1994.

14 **SEC. 5024. EYE OR EYE AND EAR HOSPITALS.**

15 (a) IN GENERAL.—Section 1833(i) (42 U.S.C.
16 1395l(i)) is amended—

17 (1) in paragraph (3)(B)(ii)—

18 (A) by striking “the last sentence of this
19 clause” and inserting “paragraph (4)”, and

20 (B) by striking the last sentence; and

21 (2) by inserting after paragraph (3) the follow-
22 ing new paragraph:

23 “(4)(A) In the case of a hospital that—

24 “(i) makes application to the Secretary and
25 demonstrates that it specializes in eye services or eye
26 and ear services (as determined by the Secretary),

1 “(ii) receives more than 30 percent of its total
2 revenues from outpatient services, and

3 “(iii) on October 1, 1987—

4 “(I) was an eye specialty hospital or an eye
5 and ear specialty hospital, or

6 “(II) was operated as an eye or eye and
7 ear unit (as defined in subparagraph (B)) of a
8 general acute care hospital which, on the date
9 of the application described in clause (i), oper-
10 ates less than 20 percent of the beds that the
11 hospital operated on October 1, 1987, and has
12 sold or otherwise disposed of a substantial por-
13 tion of the hospital’s other acute care oper-
14 ations,

15 the cost proportion and ASC proportion in effect under
16 subclauses (I) and (II) of paragraph (3)(B)(ii) for cost
17 reporting periods beginning in fiscal year 1988 shall re-
18 main in effect for cost reporting periods beginning on or
19 after October 1, 1988, and before January 1, 1995.

20 “(B) For purposes of this subparagraph (A)(iii)(II),
21 the term ‘eye or eye and ear unit’ means a physically sepa-
22 rate or distinct unit containing separate surgical suites de-
23 voted solely to eye or eye and ear services.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to portions of cost reporting pe-
3 riods beginning on or after January 1, 1994.

4 **SEC. 5025. EXTENSION OF CAP ON PAYMENTS FOR INTRA-**
5 **OCULAR LENSES.**

6 (a) IN GENERAL.—Section 4151(c)(3) of OBRA-
7 1990 is amended by striking “December 31, 1992” and
8 inserting “December 31, 1994”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall be effective as if included in the enact-
11 ment of OBRA-1990.

12 **SEC. 5026. MISCELLANEOUS AND TECHNICAL CORREC-**
13 **TIONS.**

14 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED
15 IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section
16 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended
17 by striking the comma at the end and inserting the follow-
18 ing: “, as determined in accordance with a survey (based
19 upon a representative sample of procedures and facilities)
20 taken not later than January 1, 1995, and every 5 years
21 thereafter, of the actual audited costs incurred by such
22 centers in providing such services,”.

23 (B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is
24 amended—

1 (i) in the second sentence of subparagraph (A)
2 and the second sentence of subparagraph (B), by
3 striking “and may be adjusted by the Secretary,
4 when appropriate,”; and

5 (ii) by adding at the end the following new sub-
6 paragraph:

7 “(C) Notwithstanding the second sentence of sub-
8 paragraph (A) or the second sentence of subparagraph
9 (B), if the Secretary has not updated amounts established
10 under such subparagraphs with respect to facility services
11 furnished during a fiscal year (beginning with fiscal year
12 1996), such amounts shall be increased by the percentage
13 increase in the consumer price index for all urban consum-
14 ers (U.S. city average) as estimated by the Secretary for
15 the 12-month period ending with the midpoint of the fiscal
16 year involved.”.

17 (C) The second sentence of section 1833(i)(1) (42
18 U.S.C. 1395l(i)(1)) is amended by striking the period and
19 inserting the following: “, in consultation with appropriate
20 trade and professional organizations.”.

21 (2) Section 4151(c)(3) of OBRA-1990 is amended
22 by striking “for the insertion of an intraocular lens” and
23 inserting “for an intraocular lens inserted”.

24 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW
25 TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later

1 than 1 year after the date of the enactment of this Act,
2 the Secretary of Health and Human Services (in this sub-
3 section referred to as the “Secretary”) shall develop and
4 implement a process under which interested parties may
5 request review by the Secretary of the appropriateness of
6 the reimbursement amount provided under section
7 1833(i)(2)(A)(iii) of the Social Security Act with respect
8 to a class of new technology intraocular lenses. For pur-
9 poses of the preceding sentence, an intraocular lens may
10 not be treated as a new technology lens unless it has been
11 approved by the Food and Drug Administration.

12 (2) In determining whether to provide an adjustment
13 of payment with respect to a particular lens under para-
14 graph (1), the Secretary shall take into account whether
15 use of the lens is likely to result in reduced risk of
16 intraoperative or postoperative complication or trauma,
17 accelerated postoperative recovery, reduced induced astig-
18 matism, improved postoperative visual acuity, more stable
19 postoperative vision, or other comparable clinical advan-
20 tages.

21 (3) The Secretary shall publish notice in the Federal
22 Register from time to time (but no less often than once
23 each year) of a list of the requests that the Secretary has
24 received for review under this subsection, and shall provide
25 for a 30-day comment period on the lenses that are the

1 subjects of the requests contained in such notice. The Sec-
2 retary shall publish a notice of his determinations with
3 respect to intraocular lenses listed in the notice within 90
4 days after the close of the comment period.

5 (4) Any adjustment of a payment amount (or pay-
6 ment limit) made under this subsection shall become effec-
7 tive not later than 30 days after the date on which the
8 notice with respect to the adjustment is published under
9 paragraph (3).

10 **Subchapter C—Durable Medical Equipment**

11 **SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE** 12 **MEDICAL EQUIPMENT.**

13 (a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN
14 OF LOCAL PAYMENT AMOUNTS.—

15 (1) INEXPENSIVE AND ROUTINELY PURCHASED
16 ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTAN-
17 TIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and
18 (3)(C)(i)(II) of section 1834(a) (42 U.S.C.
19 1395m(a)) are each amended—

20 (i) by striking “1992” the first place it ap-
21 pears and inserting “1992, 1993, and 1994”;
22 and

23 (ii) by striking “1992” the second place it
24 appears and inserting “the year”.

1 (B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of sec-
2 tion 1834(a) (42 U.S.C. 1395m(a)) are each amend-
3 ed—

4 (i) by striking “and” at the end of
5 subclause (I);

6 (ii) by redesignating subclause (II) as (IV);
7 and

8 (iii) by inserting after subclause (I) the fol-
9 lowing new subclauses:

10 “(II) for 1992 and 1993, the
11 amount determined under this clause
12 for the preceding year increased by
13 the covered item update for such sub-
14 sequent year,

15 “(III) for 1994, the local pay-
16 ment amount determined under clause
17 (i) for such item or device for that
18 year, except that the national limited
19 payment amount may not exceed 100
20 percent of the median of all local pay-
21 ment amounts determined under such
22 clause for such item for that year and
23 may not be less than 85 percent of
24 the median of all local payment
25 amounts determined under such

1 clause for such item or device for that
2 year, and”.

3 (2) MISCELLANEOUS DEVICES AND ITEMS.—
4 Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is
5 amended—

6 (A) in subparagraph (A)(ii)(III), by strik-
7 ing “1992” and inserting “1992, 1993, and
8 1994”; and

9 (B) in subparagraph (B)—

10 (i) by striking “and” at the end of
11 clause (i),

12 (ii) by redesignating clause (ii) as (iv),
13 and

14 (iii) by inserting after clause (i) the
15 following new clauses:

16 “(ii) for 1992 and 1993, the amount
17 determined under this subparagraph for
18 the preceding year increased by the cov-
19 ered item update for such subsequent year;

20 “(iii) for 1994, the local purchase
21 price computed under subparagraph (A)(ii)
22 for the item for the year, except that such
23 national limited purchase price may not ex-
24 ceed 100 percent of the median of all local
25 purchase prices computed for the item

1 under such subparagraph for the year and
2 may not be less than 85 percent of the me-
3 dian of all local purchase prices computed
4 under such subparagraph for the item for
5 the year; and”.

6 (3) OXYGEN AND OXYGEN EQUIPMENT.—Sec-
7 tion 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amend-
8 ed—

9 (A) in subparagraph (A)(ii)(II), by striking
10 “1991 and 1992” and inserting “1991, 1992,
11 1993, and 1994”; and

12 (B) in subparagraph (B)—

13 (i) by striking “and” at the end of
14 clause (i),

15 (ii) by redesignating clause (ii) as (iv),

16 and

17 (iii) by inserting after clause (i) the
18 following new clauses:

19 “(ii) for 1992 and 1993, the amount
20 determined under this subparagraph for
21 the preceding year increased by the cov-
22 ered item update for such subsequent year;

23 “(iii) for 1994, the local monthly pay-
24 ment rate computed under subparagraph
25 (A)(ii) for the item for the year, except

1 that such national limited monthly pay-
2 ment rate may not exceed 100 percent of
3 the median of all local monthly payment
4 rates computed for the item under such
5 subparagraph for the year and may not be
6 less than 85 percent of the median of all
7 local monthly payment rates computed for
8 the item under such subparagraph for the
9 year; and”.

10 (b) PAYMENT FOR PROSTHETIC DEVICES AND
11 ORTHOTICS AND PROSTHETICS.—

12 (1) IN GENERAL.—Section 1834(h)(2) (42
13 U.S.C. 1395m(h)(2)) is amended—

14 (A) in subparagraph (A)(ii)(II), by striking
15 “1992 or 1993” and inserting “1992, 1993, or
16 1994”;

17 (B) in subparagraph (B)(ii), by striking
18 “each subsequent year” and inserting “1993”;

19 (C) in subparagraph (C)(iv), by striking
20 “regional purchase price computed under sub-
21 paragraph (B)” and inserting “national limited
22 purchase price computed under subparagraph
23 (E)”;

24 (D) in subparagraph (D)(ii), by striking “a
25 subsequent year” and inserting “1993”; and

1 (E) by adding at the end the following new
2 subparagraph:

3 “(E) COMPUTATION OF NATIONAL LIM-
4 ITED PURCHASE PRICE.—With respect to the
5 furnishing of a particular item in a year, the
6 Secretary shall compute a national limited
7 purchase price—

8 “(i) for 1994, equal to the local pur-
9 chase price computed under subparagraph
10 (A)(ii)(II) for the item for the year, except
11 that such national limited purchase price
12 may not exceed 100 percent of the median
13 of all local purchase prices for the item
14 computed under such subparagraph for the
15 year, and may not be less than 85 percent
16 of the median of all local purchase prices
17 for the item computed under such subpara-
18 graph for the year; and

19 “(ii) for each subsequent year, equal
20 to the amount determined under this sub-
21 paragraph for the preceding year increased
22 by the applicable percentage increase for
23 such subsequent year.”.

1 (2) EXCEPTION FOR CERTAIN ITEMS.—Section
2 1834(h) (42 U.S.C. 1395m(h)), as amended by
3 paragraph (1), is further amended—

4 (A) in paragraph (1)(B), by striking “sub-
5 paragraph (C),” and inserting “subparagraphs
6 (C) and (F),”; and

7 (B) by adding at the end of paragraph (2)
8 the following new subparagraph:

9 “(F) EXCEPTION FOR CERTAIN ITEMS.—
10 Payment for ostomy supplies, tracheostomy
11 supplies, and urologicals shall be made in ac-
12 cordance with subparagraphs (B) and (C) of
13 section 1834(a)(2).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to items furnished on or after Jan-
16 uary 1, 1994.

17 **SEC. 5032. PAYMENT FOR PARENTERAL AND ENTERAL NU-**
18 **TRIENTS, SUPPLIES, AND EQUIPMENT DUR-**
19 **ING 1994.**

20 In determining the amount of payment under part
21 B of title XVIII of the Social Security Act during 1994,
22 the charges determined to be reasonable with respect to
23 parenteral and enteral nutrients, supplies, and equipment
24 may not exceed the charges determined to be reasonable

1 with respect to such nutrients, supplies, and equipment
2 during 1993.

3 **SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

4 (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.
5 1395m(a)(3)(A)) is amended by striking “ventilators, as-
6 pirators, IPPB machines, and nebulizers” and inserting
7 “ventilators and IPPB machines”.

8 (b) PAYMENT FOR ACCESSORIES RELATING TO
9 NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A)
10 (42 U.S.C. 1395m(a)) is amended—

11 (1) by striking “or” at the end of clause (i),
12 (2) by adding “or” at the end of clause (ii), and
13 (3) by inserting after clause (ii) the following
14 new clause:

15 “(iii) which is an accessory used in
16 conjunction with a nebulizer or aspirator,”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to items furnished on or after Jan-
19 uary 1, 1994.

20 **SEC. 5034. CERTIFICATION OF SUPPLIERS.**

21 (a) REQUIREMENTS.—

22 (1) IN GENERAL.—Section 1834 (42 U.S.C.
23 1395m) is amended by adding at the end the follow-
24 ing new subsection:

1 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
2 EQUIPMENT AND SUPPLIES.—

3 “(1) ISSUANCE AND RENEWAL OF SUPPLIER
4 NUMBER.—

5 “(A) PAYMENT.—Except as provided in
6 subparagraph (C), no payment may be made
7 under this part after October 1, 1994, for items
8 furnished by a supplier of medical equipment
9 and supplies unless such supplier obtains (and
10 renews at such intervals as the Secretary may
11 require) a supplier number.

12 “(B) STANDARDS FOR POSSESSING A SUP-
13 PLIER NUMBER.—A supplier may not obtain a
14 supplier number unless—

15 “(i) for medical equipment and sup-
16 plies furnished on or after October 1,
17 1994, and before January 1, 1996, the
18 supplier meets standards prescribed by the
19 Secretary; and

20 “(ii) for medical equipment and sup-
21 plies furnished on or after January 1,
22 1996, the supplier meets revised standards
23 prescribed by the Secretary (in consulta-
24 tion with representatives of suppliers of
25 medical equipment and supplies, carriers,

1 and consumers) that shall include require-
2 ments that the supplier—

3 “(I) comply with all applicable
4 State and Federal licensure and regu-
5 latory requirements;

6 “(II) maintain a physical facility
7 on an appropriate site;

8 “(III) have proof of appropriate
9 liability insurance; and

10 “(IV) meet such other require-
11 ments as the Secretary may specify.

12 “(C) EXCEPTION FOR ITEMS FURNISHED
13 AS INCIDENT TO A PHYSICIAN’S SERVICE.—
14 Subparagraph (A) shall not apply with respect
15 to medical equipment and supplies furnished as
16 an incident to a physician’s service.

17 “(D) PROHIBITION AGAINST MULTIPLE
18 SUPPLIER NUMBERS.—The Secretary may not
19 issue more than one supplier number to any
20 supplier of medical equipment and supplies un-
21 less the issuance of more than one number is
22 appropriate to identify subsidiary or regional
23 entities under the supplier’s ownership or con-
24 trol.

1 “(E) PROHIBITION AGAINST DELEGATION
2 OF SUPPLIER DETERMINATIONS.—The Sec-
3 retary may not delegate (other than by contract
4 under section 1842) the responsibility to deter-
5 mine whether suppliers meet the standards nec-
6 essary to obtain a supplier number.

7 “(2) CERTIFICATES OF MEDICAL NECESSITY.—

8 “(A) STANDARDIZED CERTIFICATES.—Not
9 later than October 1, 1994, the Secretary shall,
10 in consultation with carriers under this part,
11 develop one or more standardized certificates of
12 medical necessity (as defined in subparagraph
13 (C)) for medical equipment and supplies for
14 which the Secretary determines that such a cer-
15 tificate is necessary.

16 “(B) PROHIBITION AGAINST DISTRIBUTION
17 BY SUPPLIERS OF CERTIFICATES OF MEDICAL
18 NECESSITY.—

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), a supplier of medical
21 equipment and supplies may not distribute
22 to physicians or to individuals entitled to
23 benefits under this part for commercial
24 purposes any completed or partially com-

1 pleted certificates of medical necessity on
2 or after October 1, 1994.

3 “(ii) EXCEPTION FOR CERTAIN BILL-
4 ING INFORMATION.—Clause (i) shall not
5 apply with respect to a certificate of medi-
6 cal necessity for any item that is not con-
7 tained on the list of potentially overused
8 items developed by the Secretary under
9 subsection (a)(15)(A) to the extent that
10 such certificate contains only information
11 completed by the supplier of medical equip-
12 ment and supplies identifying such supplier
13 and the beneficiary to whom such medical
14 equipment and supplies are furnished, a
15 description of such medical equipment and
16 supplies, any product code identifying such
17 medical equipment and supplies, and any
18 other administrative information (other
19 than information relating to the bene-
20 ficiary’s medical condition) identified by
21 the Secretary. In the event a supplier pro-
22 vides a certificate of medical necessity con-
23 taining information permitted under this
24 clause, such certificate shall also contain
25 the fee schedule amount and the supplier’s

1 charge for the medical equipment or sup-
2 plies being furnished prior to distribution
3 of such certificate to the physician.

4 “(iii) PENALTY.—Any supplier of
5 medical equipment and supplies who know-
6 ingly and willfully distributes a certificate
7 of medical necessity in violation of clause
8 (i) is subject to a civil money penalty in an
9 amount not to exceed \$1,000 for each such
10 certificate of medical necessity so distrib-
11 uted. The provisions of section 1128A
12 (other than subsections (a) and (b)) shall
13 apply to civil money penalties under this
14 subparagraph in the same manner as they
15 apply to a penalty or proceeding under sec-
16 tion 1128A(a).

17 “(C) DEFINITION.—For purposes of this
18 paragraph, the term ‘certificate of medical ne-
19 cessity’ means a form or other document con-
20 taining information required by the Secretary to
21 be submitted to show that a covered item is
22 reasonable and necessary for the diagnosis or
23 treatment of illness or injury or to improve the
24 functioning of a malformed body member.

25 “(3) COVERAGE AND REVIEW CRITERIA.—

1 “(A) DEVELOPMENT AND ESTABLISH-
2 MENT.—Not later than January 1, 1996, the
3 Secretary, in consultation with representatives
4 of suppliers of medical equipment and supplies,
5 individuals enrolled under this part, and appro-
6 priate medical specialty societies, shall develop
7 and establish uniform national coverage and
8 utilization review criteria for 200 items of medi-
9 cal equipment and supplies selected in accord-
10 ance with the standards described in subpara-
11 graph (B). The Secretary shall publish the cri-
12 teria as part of the instructions provided to fis-
13 cal intermediaries and carriers under this part
14 and no further publication, including publica-
15 tion in the Federal Register, shall be required.

16 “(B) STANDARDS FOR SELECTING ITEMS
17 SUBJECT TO CRITERIA.—The Secretary may se-
18 lect an item for coverage under the criteria de-
19 veloped and established under subparagraph
20 (A) if the Secretary finds that—

21 “(i) the item is frequently purchased
22 or rented by beneficiaries;

23 “(ii) the item is frequently subject to
24 a determination that such item is not
25 medically necessary; or

1 “(iii) the coverage or utilization cri-
2 teria applied to the item (as of the date of
3 the enactment of this subsection) is not
4 consistent among carriers.

5 “(C) ANNUAL REVIEW AND EXPANSION OF
6 ITEMS SUBJECT TO CRITERIA.—The Secretary
7 shall annually review the coverage and utiliza-
8 tion of items of medical equipment and supplies
9 to determine whether items not included among
10 the items selected under subparagraph (A)
11 should be made subject to uniform national cov-
12 erage and utilization review criteria, and, if ap-
13 propriate, shall develop and apply such criteria
14 to such additional items.

15 “(4) DEFINITION.—The term ‘medical equip-
16 ment and supplies’ means—

17 “(A) durable medical equipment (as de-
18 fined in section 1861(n));

19 “(B) prosthetic devices (as described in
20 section 1861(s)(8));

21 “(C) orthotics and prosthetics (as de-
22 scribed in section 1861(s)(9));

23 “(D) surgical dressings (as described in
24 section 1861(s)(5));

1 “(E) such other items as the Secretary
2 may determine; and

3 “(F) for purposes of paragraphs (1) and
4 (3)—

5 “(i) home dialysis supplies and equip-
6 ment (as described in section
7 1861(s)(2)(F)), and

8 “(ii) immunosuppressive drugs (as de-
9 scribed in section 1861(s)(2)(J)).”.

10 (2) CONFORMING AMENDMENT.—Effective Oc-
11 tober 1, 1994, paragraph (16) of section 1834(a)
12 (42 U.S.C. 1395m(a)) is repealed.

13 (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON
14 UTILIZATION OF ITEMS.—Not later than July 1, 1996,
15 the Secretary shall submit a report to the Committee on
16 Ways and Means and the Committee on Energy and Com-
17 merce of the House of Representatives and the Committee
18 on Finance of the Senate analyzing the impact of the uni-
19 form criteria established under section 1834(i)(3)(A) of
20 the Social Security Act (as added by subsection (a)) on
21 the utilization of items of medical equipment and supplies
22 by individuals enrolled under part B of the medicare pro-
23 gram.

24 (c) USE OF COVERED ITEMS BY DISABLED BENE-
25 FICIARIES.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services, in consultation with representa-
3 tives of suppliers of durable medical equipment
4 under part B of the medicare program and individ-
5 uals entitled to benefits under such program on the
6 basis of disability, shall conduct a study of the ef-
7 fects of the methodology for determining payments
8 for items of such equipment under such part on the
9 ability of such individuals to obtain items of such
10 equipment, including customized items.

11 (2) REPORT.—Not later than one year after the
12 date of the enactment of this Act, the Secretary
13 shall submit a report to Congress on the study con-
14 ducted under paragraph (1), and shall include in the
15 report such recommendations as the Secretary con-
16 siders appropriate to assure that disabled medicare
17 beneficiaries have access to items of durable medical
18 equipment.

19 (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-
20 THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—
21 Not later than one year after the date of the enactment
22 of this Act, the Secretary of Health and Human Services
23 shall submit a report to the Committees on Ways and
24 Means and Energy and Commerce of the House of Rep-
25 resentatives and the Committee on Finance of the Senate

1 describing prosthetic devices or orthotics and prosthetics
2 covered under part B of the medicare program that do
3 not require individualized or custom fitting and adjust-
4 ment to be used by a patient. Such report shall include
5 recommendations for an appropriate methodology for de-
6 termining the amount of payment for such items under
7 such program.

8 **SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOP-**
9 **PING.**

10 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.
11 1395m(a)(12)) is amended to read as follows:

12 “(12) USE OF CARRIERS TO PROCESS
13 CLAIMS.—

14 “(A) DESIGNATION OF REGIONAL CAR-
15 RRIERS.—The Secretary may designate, by regu-
16 lation under section 1842, one carrier for one
17 or more entire regions to process all claims
18 within the region for covered items under this
19 section.

20 “(B) PROHIBITION AGAINST CARRIER
21 SHOPPING.—(i) No supplier of a covered item
22 may present or cause to be presented a claim
23 for payment under this part unless such claim
24 is presented to the appropriate regional carrier
25 (as designated by the Secretary).

1 “(ii) For purposes of clause (i), the term
 2 ‘appropriate regional carrier’ means the carrier
 3 having jurisdiction over the geographic area
 4 that includes the permanent residence of the
 5 patient to whom the item is furnished.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall apply to items furnished on or after
 8 October 1, 1993.

9 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE
 10 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing
 11 in this subsection or the amendment made by this sub-
 12 section may be construed to restrict the authority of the
 13 Secretary of Health and Human Services to designate re-
 14 gional carriers or modify claims jurisdiction rules with re-
 15 spect to items or services under part B of the medicare
 16 program that are not covered items under section 1834(a)
 17 of the Social Security Act or prosthetic devices or orthotics
 18 and prosthetics under section 1834(h) of such Act.

19 **SEC. 5036. RESTRICTIONS ON CERTAIN MARKETING AND**
 20 **SALES ACTIVITIES.**

21 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
 22 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
 23 MENT TO MEDICARE BENEFICIARIES.—

1 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.
2 1395m(a)) is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(17) PROHIBITION AGAINST UNSOLICITED
5 TELEPHONE CONTACTS BY SUPPLIERS.—

6 “(A) IN GENERAL.—A supplier of a cov-
7 ered item under this subsection may not contact
8 an individual enrolled under this part by tele-
9 phone regarding the furnishing of a covered
10 item to the individual (other than a covered
11 item the supplier has already furnished to the
12 individual) unless—

13 “(i) the individual gives permission to
14 the supplier to make contact by telephone
15 for such purpose; or

16 “(ii) the supplier has furnished a cov-
17 ered item under this subsection to the indi-
18 vidual during the 15-month period preced-
19 ing the date on which the supplier contacts
20 the individual for such purpose.

21 “(B) PROHIBITING PAYMENT FOR ITEMS
22 FURNISHED SUBSEQUENT TO UNSOLICITED
23 CONTACTS.—If a supplier knowingly contacts
24 an individual in violation of subparagraph (A),
25 no payment may be made under this part for

1 any item subsequently furnished to the individ-
2 ual by the supplier.

3 “(C) EXCLUSION FROM PROGRAM FOR
4 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
5 LICITED CONTACTS.—If a supplier knowingly
6 contacts individuals in violation of subpara-
7 graph (A) to such an extent that the supplier’s
8 conduct establishes a pattern of contacts in vio-
9 lation of such subparagraph, the Secretary shall
10 exclude the supplier from participation in the
11 programs under this Act, in accordance with
12 the procedures set forth in subsections (c), (f),
13 and (g) of section 1128.”.

14 (2) REQUIRING REFUND OF AMOUNTS COL-
15 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
16 (42 U.S.C. 1395m(a)), as amended by paragraph
17 (1), is amended by adding at the end the following
18 new paragraph:

19 “(18) REFUND OF AMOUNTS COLLECTED FOR
20 CERTAIN DISALLOWED ITEMS.—

21 “(A) IN GENERAL.—If a nonparticipating
22 supplier furnishes to an individual enrolled
23 under this part a covered item for which no
24 payment may be made under this part by rea-
25 son of paragraph (17)(B), the supplier shall re-

1 fund on a timely basis to the patient (and shall
2 be liable to the patient for) any amounts col-
3 lected from the patient for the item, unless—

4 “(i) the supplier establishes that the
5 supplier did not know and could not rea-
6 sonably have been expected to know that
7 payment may not be made for the item by
8 reason of paragraph (17)(B), or

9 “(ii) before the item was furnished,
10 the patient was informed that payment
11 under this part may not be made for that
12 item and the patient has agreed to pay for
13 that item.

14 “(B) SANCTIONS.—If a supplier knowingly
15 and willfully fails to make refunds in violation
16 of subparagraph (A), the Secretary may apply
17 sanctions against the supplier in accordance
18 with section 1842(j)(2).

19 “(C) NOTICE.—Each carrier with a con-
20 tract in effect under this part with respect to
21 suppliers of covered items shall send any notice
22 of denial of payment for covered items by rea-
23 son of paragraph (17)(B) and for which pay-
24 ment is not requested on an assignment-related
25 basis to the supplier and the patient involved.

1 “(D) TIMELY BASIS DEFINED.—A refund
2 under subparagraph (A) is considered to be on
3 a timely basis only if—

4 “(i) in the case of a supplier who does
5 not request reconsideration or seek appeal
6 on a timely basis, the refund is made with-
7 in 30 days after the date the supplier re-
8 ceives a denial notice under subparagraph
9 (C), or

10 “(ii) in the case in which such a re-
11 consideration or appeal is taken, the re-
12 fund is made within 15 days after the date
13 the supplier receives notice of an adverse
14 determination on reconsideration or ap-
15 peal.”.

16 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
17 (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-
18 graph (12)” and inserting “Paragraphs (12) and (17)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 subsections (a) and (b) shall apply to items furnished after
21 the expiration of the 60-day period that begins on the date
22 of the enactment of this Act.

23 **SEC. 5037. KICKBACK CLARIFICATION.**

24 (a) IN GENERAL.—Section 1128B(b)(3)(B) (42
25 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting be-

1 fore the semicolon the following: “(except that in the case
2 of a contract supply arrangement between any entity and
3 a supplier of medical supplies and equipment (as defined
4 in section 1834(i)(4), but not including items described
5 in subparagraph (F) of such section), such employment
6 shall not be considered bona fide to the extent that it in-
7 cludes tasks of a clerical and cataloging nature in trans-
8 mitting to suppliers assignment rights of individuals eligi-
9 ble for benefits under part B of title XVIII, or perform-
10 ance of warehousing or stock inventory functions)”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply with respect to services fur-
13 nished on or after the first day of the first month that
14 begins after the expiration of the 60-day period beginning
15 on the date of the enactment of this Act.

16 **SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED**
17 **SERVICES.**

18 (a) UNASSIGNED CLAIMS.—

19 (1) IN GENERAL.—Section 1834(i) (42 U.S.C.
20 1395m(i)), as added by section 5034(a)(1), is
21 amended—

22 (A) by redesignating paragraph (4) as
23 paragraph (5), and

24 (B) by inserting after paragraph (3) the
25 following new paragraph:

1 “(4) LIMITATION ON PATIENT LIABILITY.—If a
2 supplier of medical equipment and supplies (as de-
3 fined in paragraph (5))—

4 “(A) furnishes an item or service to a ben-
5 eficiary for which no payment may be made by
6 reason of paragraph (1);

7 “(B) furnishes an item or service to a ben-
8 eficiary for which payment is denied in advance
9 under subsection (a)(15); or

10 “(C) furnishes an item or service to a ben-
11 eficiary for which payment is denied under
12 section 1862(a)(1);

13 any expenses incurred for items and services fur-
14 nished to an individual by such a supplier not on an
15 assigned basis shall be the responsibility of such
16 supplier. The individual shall have no financial re-
17 sponsibility for such expenses and the supplier shall
18 refund on a timely basis to the individual (and shall
19 be liable to the individual for) any amounts collected
20 from the individual for such items or services. The
21 provisions of subsection (a)(18) shall apply to re-
22 funds required under the previous sentence in the
23 same manner as such provisions apply to refunds
24 under such subsection.”.

1 (2) CONFORMING AMENDMENT.—Section
2 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as
3 amended by section 5037(a), is amended by striking
4 “1834(i)(4)” and inserting “1834(i)(5)”.

5 (b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C.
6 1395pp) is amended by adding at the end the following
7 new subsection:

8 “(h) If a supplier of medical equipment and supplies
9 (as defined in section 1834(i)(4))—

10 “(1) furnishes an item or service to a bene-
11 ficiary for which no payment may be made by reason
12 of section 1834(i)(1); or

13 “(2) furnishes an item or service to a bene-
14 ficiary for which payment is denied in advance under
15 section 1834(a)(15);

16 any expenses incurred for items and services furnished to
17 an individual by such a supplier on an assignment-related
18 basis shall be the responsibility of such supplier. The indi-
19 vidual shall have no financial responsibility for such ex-
20 penses and the supplier shall refund on a timely basis to
21 the individual (and shall be liable to the individual for)
22 any amounts collected from the individual for such items
23 or services. The provisions of section 1834(a)(18) shall
24 apply to refunds required under the previous sentence in

1 the same manner as such provisions apply to refunds
2 under such section.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to items or services furnished on
5 or after October 1, 1994.

6 **SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLE-**
7 **NESS.**

8 (a) ADJUSTMENTS MADE TO FINAL PAYMENT
9 AMOUNTS.—

10 (1) IN GENERAL.—Section 1834(a)(10)(B) (42
11 U.S.C. 1395m(a)(10)(B)) is amended by adding at
12 the end the following: “In applying such provisions
13 to payments for an item under this subsection, the
14 Secretary shall make adjustments to the payment
15 basis for the item described in paragraph (1)(B) if
16 the Secretary determines (in accordance with such
17 provisions and on the basis of prices and costs appli-
18 cable at the time the item is furnished) that such
19 payment basis is not inherently reasonable.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall take effect on the date of the
22 enactment of this Act.

23 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

24 (1) IN GENERAL.—In accordance with section
25 1834(a)(10)(B) of the Social Security Act (as

1 amended by subsection (a)), the Secretary of Health
2 and Human Services shall determine whether the
3 payment amounts for the items described in para-
4 graph (2) are not inherently reasonable, and shall
5 adjust such amounts in accordance with such section
6 if the amounts are not inherently reasonable.

7 (2) ITEMS DESCRIBED.—The items referred to
8 in paragraph (1) are decubitus care equipment,
9 transcutaneous electrical nerve stimulators, and any
10 other items considered appropriate by the Secretary.

11 **SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.**

12 (a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m),
13 as amended by section 5034(a)(1), is amended by adding
14 at the end the following new subsection:

15 “(j) PAYMENT FOR SURGICAL DRESSINGS.—

16 “(1) IN GENERAL.—Payment under this sub-
17 section for surgical dressings (described in section
18 1861(s)(5)) shall be made in a lump sum amount
19 for the purchase of the item in an amount equal to
20 80 percent of the lesser of—

21 “(A) the actual charge for the item; or

22 “(B) a payment amount determined in ac-
23 cordance with the methodology described in
24 subparagraphs (B) and (C) of subsection (a)(2)
25 (except that in applying such methodology, the

1 national limited payment amount referred to in
2 such subparagraphs shall be initially computed
3 based on local payment amounts using average
4 reasonable charges for the 12-month period
5 ending December 31, 1992, increased by the
6 covered item updates described in such sub-
7 section for 1993 and 1994).

8 “(2) EXCEPTIONS.—Paragraph (1) shall not
9 apply to surgical dressings that are—

10 “(A) furnished as an incident to a physi-
11 cian’s professional service; or

12 “(B) furnished by a home health agency.”.

13 (b) CONFORMING AMENDMENT.—Section 1833(a)(1)
14 (42 U.S.C. 1395l(a)(1)), as amended by sections
15 5070(e)(2) and 5010(e)(1), is amended—

16 (1) by striking “and” before “(P)”, and

17 (2) by inserting before the semicolon at the end
18 the following: “, and (Q) with respect to surgical
19 dressings, the amounts paid shall be the amounts
20 determined under section 1834(j)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to items furnished on or after Jan-
23 uary 1, 1994.

1 **SEC. 5041. PAYMENTS FOR TENS DEVICES.**

2 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.
3 1395m(a)(1)(D)) is amended by striking “15 percent” the
4 second place it appears and inserting “45 percent”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to items furnished on or after
7 January 1, 1994.

8 **SEC. 5042. MISCELLANEOUS AND TECHNICAL CORREC-**
9 **TIONS.**

10 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-
11 graph (A) of section 1834(a)(14) (42 U.S.C.
12 1395m(a)(14)) is amended to read as follows:

13 “(A) for 1991 and 1992, the percentage
14 increase in the consumer price index for all
15 urban consumers (U.S. city average) for the 12-
16 month period ending with June of the previous
17 year reduced by 1 percentage point; and”.

18 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS
19 AND ADVANCED DETERMINATIONS OF COVERAGE.—(1)
20 Effective on the date of the enactment of this Act, section
21 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to
22 read as follows:

23 “(15) SPECIAL TREATMENT FOR POTENTIALLY
24 OVERUSED ITEMS.—

25 “(A) DEVELOPMENT OF LIST OF ITEMS BY
26 SECRETARY.—The Secretary shall develop and

1 periodically update a list of items for which
2 payment may be made under this subsection
3 that are potentially overused, and shall include
4 in such list seat-lift mechanisms, transcutane-
5 ous electrical nerve stimulators, motorized
6 scooters, decubitus care mattresses, and any
7 such other item determined by the Secretary to
8 be potentially overused on the basis of any of
9 the following criteria—

10 “(i) the item is marketed directly to
11 potential patients;

12 “(ii) the item is marketed with an
13 offer to potential patients to waive the
14 costs of coinsurance associated with the
15 item or is marketed as being available at
16 no cost to policyholders of a medicare sup-
17 plemental policy (as defined in section
18 1882(g)(1));

19 “(iii) the item has been subject to a
20 consistent pattern of overutilization; or

21 “(iv) a high proportion of claims for
22 payment for such item under this part may
23 not be made because of the application of
24 section 1862(a)(1).

1 “(B) ITEMS SUBJECT TO SPECIAL CARRIER
2 SCRUTINY.—Payment may not be made under
3 this part for any item contained in the list de-
4 veloped by the Secretary under subparagraph
5 (A) unless the carrier has subjected the claim
6 for payment for the item to special scrutiny or
7 has followed the procedures described in para-
8 graph (11)(C) with respect to the item.”.

9 (2) Effective January 1, 1994, section 1834(a)(11)
10 (42 U.S.C. 1395m(a)) is amended by adding at the end
11 the following new subparagraph:

12 “(C) CARRIER DETERMINATIONS FOR CER-
13 TAIN ITEMS IN ADVANCE.—A carrier shall de-
14 termine in advance whether payment for an
15 item may not be made under this subsection be-
16 cause of the application of section 1862(a)(1)
17 if—

18 “(i) the item is a customized item
19 (other than inexpensive items specified by
20 the Secretary); or

21 “(ii) the item is a specified covered
22 item under subparagraph (B).”.

23 (3) Effective for standards applied for contract years
24 beginning after the date of the enactment of this Act, sec-
25 tion 1842(c) (42 U.S.C. 1395u(c)), as amended by section

1 5013(a), is amended by adding at the end the following
2 new paragraph:

3 “(5) Each contract under this section which provides
4 for the disbursement of funds, as described in subsection
5 (a)(1)(B), shall require the carrier to meet criteria devel-
6 oped by the Secretary to measure the timeliness of carrier
7 responses to requests for payment of items described in
8 section 1834(a)(11)(C).”.

9 (4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is
10 amended by striking “paragraph (10) and paragraph
11 (11)” and inserting “paragraphs (10) and (11)”.

12 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
13 EQUIPMENT SUPPLIER COSTS.—

14 (1) COLLECTION AND ANALYSIS OF SUPPLIER
15 COST DATA.—The Administrator of the Health Care
16 Financing Administration shall, in consultation with
17 appropriate organizations, collect data on supplier
18 costs of durable medical equipment for which pay-
19 ment may be made under part B of the medicare
20 program, and shall analyze such data to determine
21 the proportions of such costs attributable to the
22 service and product components of furnishing such
23 equipment and the extent to which such proportions
24 vary by type of equipment and by the geographic
25 region in which the supplier is located.

1 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
2 MENT INDEX; REPORTS.—Not later than January 1,
3 1995—

4 (A) the Administrator shall submit a re-
5 port to the Committees on Energy and Com-
6 merce and Ways and Means of the House of
7 Representatives and the Committee on Finance
8 of the Senate on the data collected and the
9 analysis conducted under paragraph (1), and
10 shall include in such report the Administrator’s
11 recommendations for a geographic cost adjust-
12 ment index for suppliers of durable medical
13 equipment under the medicare program and an
14 analysis of the impact of such proposed index
15 on payments under the medicare program; and

16 (B) the Comptroller General shall submit a
17 report to the Committees on Energy and Com-
18 merce and Ways and Means of the House of
19 Representatives and the Committee on Finance
20 of the Senate analyzing on a geographic basis
21 the supplier costs of durable medical equipment
22 under the medicare program.

23 (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)
24 (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”
25 and inserting “56”.

1 (e) OTHER MISCELLANEOUS AND TECHNICAL
2 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990
3 is amended by striking “amendment made by subsection
4 (a)” and inserting “amendments made by this sub-
5 section”.

6 (2) Section 4152(c)(2) of OBRA-1990 is amended
7 by striking “1395m(a)(7)(A)” and inserting
8 “1395m(a)(7)”.

9 (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.
10 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause
11 (v)” and inserting “clause (vi)”.

12 (4) Section 1834(a)(7)(C)(i) (42 U.S.C.
13 1395m(a)(7)(C)(i)) is amended by striking “or paragraph
14 (3)”.

15 (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is
16 amended by striking subparagraph (D).

17 (6) Section 4153(c)(1) of OBRA-1990 is amended
18 by striking “1834(a)” and inserting “1834(h)”.

19 (7) Section 4153(d)(2) of OBRA-1990 is amended
20 by striking “Reconciliation” and inserting “Reconcili-
21 ation”.

22 (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is
23 amended by striking paragraph (6).

24 (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-
25 ed—

1 (i) in subparagraphs (A) and (B) of paragraph
2 (1), by striking “(2) through (7)” each place it ap-
3 pears and inserting “(2) through (5) and (7)”;

4 (ii) in paragraph (7), by striking “(2) through
5 (6)” and inserting “(2) through (5)”;

6 (iii) in paragraph (8), by striking “paragraphs
7 (6) and (7)” each place it appears in the matter pre-
8 ceding subparagraph (A) and in subparagraph (C)
9 and inserting “paragraph (7)”; and

10 (iv) in paragraph (8)(A)(i), by striking “de-
11 scribed—” and all that follows and inserting “de-
12 scribed in paragraph (7) equal to the average of the
13 purchase prices on the claims submitted on an as-
14 signment-related basis for the unused item supplied
15 during the 6-month period ending with December
16 1986.”.

17 (9) The amendments made by this subsection shall
18 take effect as if included in the enactment of OBRA-1990.

19 **Subchapter D—Part B Premium**

20 **SEC. 5051. PART B PREMIUM.**

21 Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

22 (1) in paragraph (1)(A), by inserting “and for
23 each month in 1996 and 1997” after “January
24 1991”, and

1 (2) in paragraph (2), by striking “1991” and
2 inserting “1998”.

3 **Subchapter E—Other Provisions**

4 **SEC. 5061. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORA-**
5 **TORY TESTS.**

6 (a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C.
7 1395l(h)(4)(B)) is amended—

8 (1) by striking “and” at the end of clause (iii),

9 (2) in clause (iv), by inserting “and before Jan-
10 uary 1, 1994,” after “1990,”,

11 (3) by striking the period at the end of clause
12 (iv) and inserting “, and”, and

13 (4) by adding at the end the following:

14 “(v) after December 31, 1993, is equal to 76
15 percent of the median of all the fee schedules estab-
16 lished for that test for that laboratory setting under
17 paragraph (1).”.

18 (b) TWO PERCENT UPDATE FOR 1994 THROUGH
19 1998.—Section 1833(h)(2)(A)(ii)(III) (42 U.S.C.
20 1395l(h)(2)(A)(ii)(III)) is amended by striking “1991,
21 1992, and 1993” and inserting “1991 through 1998”.

1 **SEC. 5062. TREATMENT OF INPATIENTS AND PROVISION OF**
2 **DIAGNOSTIC AND THERAPEUTIC X-RAY SERV-**
3 **ICES BY RURAL HEALTH CLINICS AND FED-**
4 **ERALLY QUALIFIED HEALTH CENTERS.**

5 (a) TREATMENT OF INPATIENTS.—Section 1861(aa)
6 (42 U.S.C. 1395x(aa)) is amended—

7 (1) in paragraph (1), in the matter following
8 subparagraph (C), by striking “as an outpatient”
9 and inserting “as a patient”;

10 (2) in paragraph (2)(A), by striking “furnishing
11 to outpatients” and inserting “furnishing to pa-
12 tients”; and

13 (3) in paragraph (3), in the matter following
14 subparagraph (B), by striking “as an outpatient”
15 and inserting “as a patient”.

16 (b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC
17 X-RAY SERVICES.—Section 1861(aa) (42 U.S.C.
18 1395x(aa)) is further amended—

19 (1) in paragraph (1)(A), by inserting “(i)” after
20 “(A)” and by adding at the end the following: “and
21 (ii) diagnostic and therapeutic x-ray services,”; and

22 (2) in paragraph (2)(A), by striking “(A)” and
23 inserting “(A)(i)”.

24 (c) CONFORMING AMENDMENT.—Section
25 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by
26 striking “and services of a certified registered nurse anes-

1 thetist” and inserting “services of a certified registered
2 nurse anesthetist, rural health clinic services, and Feder-
3 ally-qualified health center services”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on January 1, 1994, and shall
6 apply to services furnished on or after such date.

7 **SEC. 5063. APPLICATION OF MAMMOGRAPHY CERTIFI-**
8 **CATION REQUIREMENTS.**

9 (a) SCREENING MAMMOGRAPHY.—Section 1834(c)
10 (42 U.S.C. 1395m(c)) is amended—

11 (1) in paragraph (1)(B), by striking “meets the
12 quality standards established under paragraph (3)”
13 and inserting “is conducted by a facility that has a
14 certificate (or provisional certificate) issued under
15 section 354 of the Public Health Service Act”;

16 (2) in paragraph (1)(C)(iii), by striking “para-
17 graph (4)” and inserting “paragraph (3)”;

18 (3) by striking paragraph (3); and

19 (4) by redesignating paragraphs (4) and (5) as
20 paragraphs (3) and (4).

21 (b) DIAGNOSTIC MAMMOGRAPHY.—Section
22 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by insert-
23 ing “and including diagnostic mammography if conducted
24 by a facility that has a certificate (or provisional certifi-

1 cate) issued under section 354 of the Public Health Serv-
2 ice Act” after “necessary”.

3 (c) CONFORMING AMENDMENTS.—(1) Section
4 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by
5 striking “or which does not meet the standards established
6 under section 1834(c)(3)” and inserting “or which is not
7 conducted by a facility described in section
8 1834(c)(1)(B)”.

9 (2) Section 1863 (42 U.S.C. 1395z) is amended by
10 striking “or whether screening mammography meets the
11 standards established under section 1834(c)(3),”.

12 (3) The first sentence of section 1864(a) (42 U.S.C.
13 1395aa(a)) is amended by striking “, or whether screening
14 mammography meets the standards established under sec-
15 tion 1834(c)(3)”.

16 (4) The third sentence of section 1865(a) (42 U.S.C.
17 1395bb(a)) is amended by striking “1834(c)(3),”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to mammography furnished by a
20 facility on and after the first date that the certificate re-
21 quirements of section 354(b) of the Public Health Service
22 Act apply to such mammography conducted by such facil-
23 ity.

1 **SEC. 5064. EXTENSION OF ALZHEIMER'S DISEASE DEM-**
2 **ONSTRATION.**

3 Section 9342 of OBRA-1986, as amended by section
4 4164(a)(2) of OBRA-1990, is amended—

5 (1) in subsection (c)(1), by striking “4 years”
6 and inserting “5 years”; and

7 (2) in subsection (f)—

8 (A) by striking “\$55,000,000” and insert-
9 ing “\$60,000,000”, and

10 (B) by striking “\$3,000,000” and insert-
11 ing “\$5,000,000”.

12 **SEC. 5065. ORAL CANCER DRUGS.**

13 (a) COVERAGE OF CERTAIN SELF-ADMINISTERED
14 ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C.
15 1395(s)(2)), as amended by section 5070(f)(7)(B), is
16 amended—

17 (1) by striking “and” at the end of subpara-
18 graph (N);

19 (2) by adding “and” at the end of subpara-
20 graph (O); and

21 (3) by adding at the end the following new sub-
22 paragraph:

23 “(P) an oral drug (which is approved by the
24 Federal Food and Drug Administration) prescribed
25 for use as an anticancer chemotherapeutic agent for
26 a given indication, and containing an active ingredi-

1 ent (or ingredients), which is the same indication
2 and active ingredient (or ingredients) as a drug
3 which the carrier determines would be covered pur-
4 suant to subparagraph (A) or (B) if the drug could
5 not be self-administered;”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to items furnished on or after Jan-
8 uary 1, 1994.

9 **SEC. 5066. EXTENSION OF MUNICIPAL HEALTH SERVICE**
10 **DEMONSTRATION PROJECTS.**

11 Section 9215 of the Consolidated Omnibus Budget
12 Reconciliation Act of 1985, as amended by section 6135
13 of OBRA–1989, is amended—

14 (1) by striking “December 31, 1993” and in-
15 sserting “December 31, 1997”, and

16 (2) in the second sentence, by inserting after
17 “beneficiary costs,” the following: “costs to the med-
18 icaid program and other payors, access to care, out-
19 comes, beneficiary satisfaction, utilization differences
20 among the different populations served by the
21 projects,”.

1 **SEC. 5067. TREATMENT OF CERTAIN INDIAN HEALTH PRO-**
2 **GRAMS AND FACILITIES AS FEDERALLY-**
3 **QUALIFIED HEALTH CENTERS.**

4 (a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C.
5 1395x(aa)(4)) is amended—

6 (1) by striking “or” at the end of subparagraph
7 (B);

8 (2) by striking the period at the end of sub-
9 paragraph (C) and inserting “; or”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(D) is an outpatient health program or facility
13 operated by a tribe or tribal organization under the
14 Indian Self-Determination Act or by an urban In-
15 dian organization receiving funds under title V of
16 the Indian Health Care Improvement Act.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect as if included in the enact-
19 ment of section 4161(a)(2)(C) of OBRA–1990.

20 **SEC. 5068. INTEREST PAYMENTS.**

21 (a) IN GENERAL.—Section 1842(c)(2)(B)(ii)(IV) of
22 the Social Security Act shall be applied with respect to
23 paper claims received in the 9-month period beginning
24 January 1, 1993, by substituting “27 calendar days” for
25 “24 calendar days” and “17 calendar days”.

1 (b) PROHIBITING PAYMENT OF INTEREST DURING
2 MANDATORY PAYMENT DELAY PERIOD.—Section
3 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is amended by
4 adding at the end the following: “Notwithstanding any
5 other provision of law, no interest may be paid with re-
6 spect to a claim pursuant to the preceding sentence within
7 any period following the submission of the claim during
8 which no payment may be issued, mailed, or otherwise
9 transmitted with respect to the claim.”.

10 **SEC. 5069. CLARIFICATION OF COVERAGE OF CERTIFIED**
11 **NURSE-MIDWIFE SERVICES PERFORMED**
12 **OUTSIDE THE MATERNITY CYCLE.**

13 (a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C.
14 1395x(gg)(2)) is amended by striking “, and performs
15 services” and all that follows and inserting a period.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to services furnished on or after
18 January 1, 1994.

19 **SEC. 5069A. INCREASE IN, AND STUDY OF, ANNUAL CAP ON**
20 **AMOUNT OF MEDICARE PAYMENT FOR OUT-**
21 **PATIENT PHYSICAL THERAPY AND OCCUPA-**
22 **TIONAL THERAPY SERVICES.**

23 (a) INCREASE IN ANNUAL LIMITATION.—Section
24 1833(g) (42 U.S.C. 1395l(g)) is amended by striking
25 “\$750” and inserting “\$900” each place it appears.

1 (b) STUDY.—(1) The Physician Payment Review
2 Commission shall conduct a study of the appropriateness
3 of continuing an annual limitation on the amount of pay-
4 ment for outpatient services of independently practicing
5 physical and occupational therapists under the medicare
6 program.

7 (2) By not later than January 1, 1995, the Commis-
8 sion shall submit to the Committees on Energy and Com-
9 merce and Ways and Means of the House of Representa-
10 tives and the Committee on Finance of the Senate a report
11 on the study conducted under paragraph (1). Such report
12 shall include such recommendations for changes in such
13 annual limitation as the Commission finds appropriate.

14 (c) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to services furnished on or after
16 January 1, 1994.

17 **SEC. 5070. MISCELLANEOUS AND TECHNICAL CORREC-**
18 **TIONS.**

19 (a) REVISION OF INFORMATION ON PART B CLAIMS
20 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is
21 amended—

22 (1) by striking “provider number” and inserting
23 “unique physician identification number”; and

1 (2) by striking “and indicate whether or not the
2 referring physician is an interested investor (within
3 the meaning of section 1877(h)(5))”.

4 (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-
5 tive with respect to services furnished on or after January
6 1, 1991, section 6113(c) of OBRA-1989 is amended—

7 (1) by inserting “and clinical social worker
8 services” after “psychologist services”; and

9 (2) by striking “psychologist” the second and
10 third place it appears and inserting “psychologist or
11 clinical social worker”.

12 (c) REPORTS ON HOSPITAL OUTPATIENT PAY-
13 MENT.—(1) OBRA-1989 is amended by striking section
14 6137.

15 (2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is
16 amended—

17 (A) by striking paragraph (6); and

18 (B) in paragraph (7)—

19 (i) by striking “systems” each place it ap-
20 pears and inserting “system”; and

21 (ii) by striking “paragraphs (1) and (6)”
22 and inserting “paragraph (1)”.

23 (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-
24 VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

25 (1) Effective as if included in the enactment of

1 OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.
2 1395l(n)(1)(B)(i)(II)) is amended—

3 (A) by inserting “and for services described in
4 subsection (a)(2)(E)(ii) furnished on or after Janu-
5 ary 1, 1992” after “1989”; and

6 (B) by striking “1842(b)” and inserting
7 “1842(b) (or, in the case of services furnished on or
8 after January 1, 1992, under section 1848)”.

9 (2) Effective as if included in the enactment of
10 OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.
11 1395l(n)(1)(B)(i)(II)) is amended by striking “January
12 1,” and inserting “April 1,”.

13 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL
14 AREAS (SECTION 4155 OF OBRA-1990).—(1) Section
15 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is
16 amended—

17 (A) by striking “subsection (aa)(3)” and insert-
18 ing “subsection (aa)(5)”; and

19 (B) by striking “subsection (aa)(4)” and insert-
20 ing “subsection (aa)(6)”.

21 (2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is
22 amended—

23 (A) by striking “and” before “(N)”; and

24 (B) with respect to the matter inserted by sec-
25 tion 4155(b)(2)(B) of OBRA-1990—

1 (i) by striking “(M)” and inserting “, and
2 (O)”, and

3 (ii) by transferring and inserting it (as
4 amended) immediately before the semicolon at
5 the end.

6 (3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is
7 amended—

8 (A) by striking “ambulatory” each place it ap-
9 pears and inserting “or ambulatory”; and

10 (B) by striking “center,” and inserting “cen-
11 ter”.

12 (4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))
13 is amended by striking “subsection (a)(1)(M)” and insert-
14 ing “subsection (a)(1)(O)”.

15 (5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is
16 amended by striking “subsection (s)(2)(K)(i)” and insert-
17 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

18 (6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is
19 amended by striking “this Act” and inserting “this title”.

20 (7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is
21 amended by striking “1861(s)(2)(K)(i)” and inserting
22 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

23 (8) Section 1866(a)(1)(H) (42 U.S.C.
24 1395cc(a)(1)(H)) is amended by striking

1 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or
2 1861(s)(2)(K)(iii)”.

3 (f) OTHER MISCELLANEOUS AND TECHNICAL
4 AMENDMENTS.—

5 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-
6 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED
7 PLAN.—(A) Subparagraphs (A) and (B) of section
8 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amend-
9 ed—

10 (i) by striking “beginning with the first
11 day of the first month in which the individual
12 is no longer enrolled” and inserting “including
13 each month during any part of which the indi-
14 vidual is enrolled”; and

15 (ii) by striking “and ending seven months
16 later” and inserting “ending with the last day
17 of the eighth consecutive month in which the in-
18 dividual is at no time so enrolled”.

19 (B) Paragraphs (1) and (2) of section 1838(e)
20 (42 U.S.C. 1395q(e)) are amended to read as fol-
21 lows:

22 “(1) in any month of the special enrollment pe-
23 riod in which the individual is at any time enrolled
24 in a plan (specified in subparagraph (A) or (B), as
25 applicable, of section 1837(i)(3)) or in the first

1 month following such a month, the coverage period
2 shall begin on the first day of the month in which
3 the individual so enrolls (or, at the option of the in-
4 dividual, on the first day of any of the following
5 three months), or

6 “(2) in any other month of the special enroll-
7 ment period, the coverage period shall begin on the
8 first day of the month following the month in which
9 the individual so enrolls.”.

10 (C) The amendments made by subparagraphs
11 (A) and (B) shall take effect on the first day of the
12 first month that begins after the expiration of the
13 120-day period that begins on the date of the enact-
14 ment of this Act.

15 (2) BLEND AMOUNTS FOR AMBULATORY SUR-
16 GICAL CENTER PAYMENTS.—Subclauses (I) and (II)
17 of section 1833(i)(3)(B)(ii) (42 U.S.C.
18 1395l(i)(3)(B)(ii)) are each amended—

19 (A) by striking “for reporting” and insert-
20 ing “for portions of cost reporting”; and

21 (B) by striking “and on or before” and in-
22 serting “and ending on or before”.

23 (3) CLINICAL DIAGNOSTIC LABORATORY TESTS
24 (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5)

1 of OBRA-1990 is amended by striking “(1)(A)” and
2 inserting “(1)(A),”.

3 (4) SEPARATE PAYMENT UNDER PART B FOR
4 CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—
5 Section 4157(a) of OBRA-1990 is amended by
6 striking “(a) SERVICES OF” and all that follows
7 through “Section” and inserting “(a) TREATMENT
8 OF SERVICES OF CERTAIN HEALTH PRACTITION-
9 ERS.—Section”.

10 (5) COMMUNITY HEALTH CENTERS AND RURAL
11 HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—

12 (A) The fourth sentence of section 1861(aa)(2) (42
13 U.S.C. 1395x(aa)(2)) is amended—

14 (i) by striking “certification” the first
15 place it appears and inserting “approval”; and

16 (ii) by striking “the Secretary’s approval
17 or disapproval of the certification” and insert-
18 ing “Secretary’s approval or disapproval”.

19 (B) Section 4161(a)(7)(B) of OBRA-1990 is
20 amended by inserting “and to the Committee on Fi-
21 nance of the Senate” after “Representatives”.

22 (6) SCREENING MAMMOGRAPHY (SECTION 4163
23 OF OBRA-1990).—Section 4163 of OBRA-1990 is
24 amended—

1 (A) by adding at the end of subsection (d)
2 the following new paragraph:

3 “(3) The amendment made by paragraph
4 (2)(A)(iv) shall apply to screening pap smears per-
5 formed on or after July 1, 1990.”; and

6 (B) in subsection (e), by striking “The
7 amendments” and inserting “Except as pro-
8 vided in subsection (d)(3), the amendments”.

9 (7) INJECTABLE DRUGS FOR TREATMENT OF
10 OSTEOPOROSIS.—

11 (A) CLARIFICATION OF DRUGS COV-
12 ERED.—The section 1861(jj) (42 U.S.C.
13 1395x(jj)) inserted by section 4156(a)(2) of
14 OBRA-1990 is amended—

15 (i) in the matter preceding paragraph
16 (1), by striking “a bone fracture related
17 to”; and

18 (ii) in paragraph (1), by striking “pa-
19 tient” and inserting “individual has suf-
20 fered a bone fracture related to post-meno-
21 pausal osteoporosis and that the individ-
22 ual”.

23 (B) LIMITING COVERAGE TO DRUGS PRO-
24 VIDED BY HOME HEALTH AGENCIES.—(i) The
25 section 1861(jj) (42 U.S.C. 1395x(jj)) inserted

1 by section 4156(a)(2) of OBRA-1990 is
2 amended by striking “if” and inserting “by a
3 home health agency if”.

4 (ii) Section 1861(m)(5) (42 U.S.C.
5 1395x(m)(5)) is amended by striking “but ex-
6 cluding” and inserting “and a covered
7 osteoporosis drug (as defined in subsection
8 (kk), but excluding other”.

9 (iii) Section 1861(s)(2) (42 U.S.C.
10 1395x(s)(2)) is amended—

11 (I) by adding “and” at the end of
12 subparagraph (N), and

13 (II) by striking subparagraph (O) and
14 redesignating subparagraph (P) as sub-
15 paragraph (O).

16 (C) PAYMENT BASED ON REASONABLE
17 COST.—Section 1833(a)(2) (42 U.S.C.
18 1395l(a)(2)) is amended—

19 (i) in subparagraph (A), by striking
20 “health services” and inserting “health
21 services (other than covered osteoporosis
22 drug (as defined in section 1861(kk)))”;

23 (ii) by striking “and” at the end of
24 subparagraph (D);

1 (iii) by striking the semicolon at the
2 end and inserting “; and”; and

3 (iv) by adding at the end the following
4 new subparagraph:

5 “(F) with respect to covered osteoporosis
6 drug (as defined in section 1861(kk)) furnished
7 by a home health agency, 80 percent of the rea-
8 sonable cost of such service, as determined
9 under section 1861(v);”.

10 (D) APPLICATION OF PART B DEDUCT-
11 IBLE.—Section 1833(b)(2) (42 U.S.C.
12 1395l(b)(2)) is amended by striking “services”
13 and inserting “services (other than covered
14 osteoporosis drug (as defined in section
15 1861(kk)))”.

16 (E) COVERED OSTEOPOROSIS DRUG (SEC-
17 TION 4156 OF OBRA-1990).—Section 1861 (42
18 U.S.C. 1395x) is amended, in the subsection
19 (jj) inserted by section 4156(a)(2) of OBRA-
20 1990, by striking “(jj) The term” and inserting
21 “(kk) The term”.

22 (8) OTHER MISCELLANEOUS AND TECHNICAL
23 CORRECTIONS (SECTION 4164 OF OBRA-1990).—

24 (A) OWNERSHIP DISCLOSURE REQUIRE-
25 MENTS.—(i) Section 1124A(a)(2)(A) (42

1 U.S.C. 1320a–3a(a)(2)(A)) is amended by
2 striking “of the Social Security Act”.

3 (ii) Section 4164(b)(4) of OBRA–1990 is
4 amended by striking “paragraph” and inserting
5 “paragraphs”.

6 (B) DIRECTORY OF UNIQUE PHYSICIAN
7 IDENTIFIER NUMBERS.—Section 4164(c) of
8 OBRA–1990 is amended by striking “publish”
9 and inserting “publish, and shall periodically
10 update,”.

11 (g) EFFECTIVE DATE.—Except as otherwise provided
12 in this section, the amendments made by this section shall
13 take effect as if included in the enactment of OBRA–1990.

14 **CHAPTER 2—PROVISIONS RELATING TO**
15 **PARTS A AND B**

16 **SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF**
17 **HOSPITAL-BASED HOME HEALTH AGENCIES.**

18 (a) GENERAL RULE.—The first sentence of section
19 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is
20 amended by striking “, with appropriate adjustment for
21 administrative and general costs of hospital-based agen-
22 cies”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) applies to cost reporting periods beginning
25 after fiscal year 1993.

1 **SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAY-**
2 **MENTS.**

3 (a) STUDY.—The Secretary of Health and Human
4 Services shall conduct a study of the methodology used
5 to determine payments to hospitals under the medicare
6 program for the costs of medical residency training pro-
7 grams and shall include in the study an analysis of the
8 causes of variation among such programs in the per resi-
9 dent costs of direct graduate medical education, including
10 the extent of support for such programs from non-hospital
11 sources.

12 (b) REPORT.—Not later than 1 year after the date
13 of the enactment of this Act, the Secretary shall submit
14 a report to Congress on the study conducted under sub-
15 section (a), and shall include in the report any rec-
16 ommendations considered appropriate by the Secretary for
17 modifications to the methodology used to determine pay-
18 ments to hospitals under the medicare program for the
19 costs of medical residency training programs that will en-
20 courage greater uniformity among medical residency train-
21 ing programs in the per resident costs of direct graduate
22 medical education.

23 **SEC. 5073. MEDICARE AS SECONDARY PAYER.**

24 (a) EXTENSION OF DATA MATCH PROGRAM.—Sec-
25 tion 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is
26 amended by striking “1995” and inserting “1998”.

1 (b) PERMANENT APPLICATION TO DISABLED INDI-
2 VIDUALS.—Section 1862(b)(1)(B) (42 U.S.C.
3 1395y(b)(1)(B)) is amended by striking clause (iii).

4 (c) APPLICATION OF ESRD RULES TO CERTAIN
5 AGED AND DISABLED BENEFICIARIES AND EXTENSION
6 OF APPLICATION OF 18-MONTH RULE.—

7 (1) Subparagraphs (A)(iv) and (B)(ii) of section
8 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each
9 amended—

10 (A) by striking “Clause (i) shall not apply”
11 and inserting “Subparagraph (C) shall apply
12 instead of clause (i)”, and

13 (B) by inserting “(without regard to enti-
14 tlement under section 226)” after “or” the sec-
15 ond place it appears.

16 (2) The second sentence of section
17 1862(b)(1)(C) is amended by striking “on or before
18 January 1, 1996” and inserting “before October 1,
19 1998”.

20 (d) UNIFORM RULES FOR SIZE OF EMPLOYER.—

21 (1) IN GENERAL.—Section 1862(b)(1) (42
22 U.S.C. 1395y(b)(1)) is amended by adding at the
23 end the following:

24 “(E) GENERAL PROVISIONS.—

1 “(i) EXCLUSION OF GROUP HEALTH
2 PLAN OF A SMALL EMPLOYER.—Subpara-
3 graphs (A) through (C) do not apply to a
4 group health plan unless the plan is a plan
5 of, or contributed to by, an employer or
6 employee organization that has 20 or more
7 individuals in current employment status
8 for each working day in each of 20 or more
9 calendar weeks in the current calendar
10 year or the preceding calendar year.

11 “(ii) EXCEPTION FOR SMALL EMPLOY-
12 ERS IN MULTIEMPLOYER OR MULTIPLE
13 EMPLOYER GROUP HEALTH PLANS.—Sub-
14 paragraphs (A) through (C) also do not
15 apply with respect to individuals enrolled
16 in a multiemployer or multiple employer
17 group health plan if the coverage of the in-
18 dividuals under the plan is by virtue of
19 current employment status with an em-
20 ployer that does not have 20 or more indi-
21 viduals in current employment status for
22 each working day in each of 20 or more
23 calendar weeks in the current calendar
24 year and the preceding calendar year; but
25 the exception provided in this clause ap-

1 plies only if the plan elects treatment
2 under this clause.

3 “(iii) APPLICATION OF CONTROLLED
4 GROUP RULES.—For purposes of clauses
5 (i) and (ii)—

6 “(I) all employees of corporations
7 which are members of a controlled
8 group of corporations (within the
9 meaning of section 1563(a) of the In-
10 ternal Revenue Code of 1986, deter-
11 mined without regard to subsection
12 (a)(4) or (e)(3)(C)), shall be treated
13 as employed by a single employer,

14 “(II) all employees of trades or
15 businesses (whether or not incor-
16 porated) which are under common
17 control (under regulations prescribed
18 by the Secretary of the Treasury
19 under section 414(c) of that Code)
20 shall be treated as employed by a sin-
21 gle employer,

22 “(III) all employees of the mem-
23 bers of an affiliated service group (as
24 defined in section 414(m) of that

1 Code) shall be treated as employed by
2 a single employer, and

3 “(IV) leased employees (as de-
4 fined in section 414(n)(2) of that
5 Code) shall be treated as employees of
6 the person for whom they perform
7 services to the extent they are so
8 treated under section 414(n) of that
9 Code.

10 In applying sections of the Internal Reve-
11 nue Code of 1986 under this clause, the
12 Secretary shall rely upon the regulations
13 and decisions of the Secretary of the
14 Treasury respecting such sections.

15 “(iv) GROUP HEALTH PLAN DE-
16 FINED.—For purposes of this subsection,
17 the term ‘group health plan’ has the mean-
18 ing given such term in section 5000(b) of
19 the Internal Revenue Code of 1986, with-
20 out regard to section 5000(d) of such
21 Code.

22 “(v) CURRENT EMPLOYMENT STATUS
23 DEFINED.—For purposes of this sub-
24 section, an individual has ‘current employ-
25 ment status’ with an employer if the indi-

1 vidual is an employee, is the employer, or
2 is associated with the employer in a busi-
3 ness relationship.

4 “(vi) TREATMENT OF SELF-EM-
5 PLOYED PERSONS AS EMPLOYERS.—For
6 purposes of this subsection, the term ‘em-
7 ployer’ includes a self-employed person.”.

8 (2) CONFORMING AMENDMENTS FOR WORKING
9 AGED.—Section 1862(b)(1)(A) (42 U.S.C.
10 1395y(b)(1)(A)) is amended—

11 (A) by amending subclauses (I) and (II) of
12 clause (i) to read as follows:

13 “(I) may not take into account
14 that an individual (or the individual’s
15 spouse) who is covered under the plan
16 by virtue of the individual’s current
17 employment status with an employer
18 is entitled to benefits under this title
19 under section 226(a), and

20 “(II) shall provide that any indi-
21 vidual age 65 or over (and the individ-
22 ual’s spouse age 65 or older) who is
23 covered under the plan by virtue of
24 the individual’s current employment
25 status with an employer shall be enti-

1 tled to the same benefits under the
2 plan under the same conditions as any
3 such individual (or spouse) under age
4 65.”;

5 (B) by striking clauses (ii), (iii), and (v),
6 and

7 (C) by redesignating clause (iv) as clause
8 (ii).

9 (3) AMENDMENTS FOR DISABLED INDIVID-
10 UALS.—Section 1862(b) (42 U.S.C. 1395y(b)) is
11 amended—

12 (A) by amending the heading and clause
13 (i) of paragraph (1)(B) to read as follows:

14 “(B) DISABLED INDIVIDUALS UNDER
15 GROUP HEALTH PLANS.—

16 “(i) IN GENERAL.—A group health
17 plan may not take into account that an in-
18 dividual (or a member of the individual’s
19 family) who is covered under the plan by
20 virtue of the individual’s current employ-
21 ment status with an employer is entitled to
22 benefits under this title under section
23 226(b).”;

24 (B) by striking clause (iv) of paragraph
25 (1)(B); and

1 (C) in the second sentence of paragraph
2 (2)(A), by striking “or large group health
3 plan”.

4 (4) AMENDMENTS FOR INDIVIDUALS WITH
5 ESRD.—Section 1862(b)(1)(C) (42 U.S.C.
6 1395y(b)(1)(C)) is amended—

7 (A) in the matter preceding clause (i), by
8 striking “(as defined in subparagraph (A)(v))”,

9 (B) by striking “solely” each place it ap-
10 pears,

11 (C) by striking “by reason of” and insert-
12 ing “under” each place it appears, and

13 (D) by inserting “or eligible for” after “en-
14 titled to” each place it appears.

15 (e) SECONDARY PAYER EXEMPTION FOR MEMBERS
16 OF RELIGIOUS ORDERS.—Effective as if included in the
17 enactment of OBRA–1989, section 6202(e)(2) of such Act
18 is amended by adding at the end the following: “Such
19 amendment also shall apply to items and services fur-
20 nished before such date with respect to secondary payer
21 cases which the Secretary of Health and Human Services
22 had not identified as of such date.”.

23 (f) IMPROVING IDENTIFICATION OF MEDICARE SEC-
24 ONDARY PAYER SITUATIONS.—

25 (1) SURVEY OF BENEFICIARIES.—

1 (A) IN GENERAL.—Section 1862(b)(5) (42
2 U.S.C. 1395y(b)(5)) is amended by adding at
3 the end the following new subparagraph:

4 “(D) OBTAINING INFORMATION FROM
5 BENEFICIARIES.—Before an individual applies
6 for benefits under part A or enrolls under part
7 B, the Administrator shall mail the individual a
8 questionnaire to obtain information on whether
9 the individual is covered under a primary plan
10 and the nature of the coverage provided under
11 the plan, including the name, address, and iden-
12 tifying number of the plan.”.

13 (B) DISTRIBUTION OF QUESTIONNAIRE BY
14 CONTRACTOR.—The Secretary of Health and
15 Human Services shall enter into an agreement
16 with an entity not later than April 1, 1994, to
17 distribute the questionnaire described in section
18 1862(b)(5)(D) of the Social Security Act (as
19 added by subparagraph (A)).

20 (C) NO MEDICARE SECONDARY PAYER DE-
21 NIAL BASED ON FAILURE TO COMPLETE QUES-
22 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.
23 1395y(b)(2)) is amended by adding at the end
24 the following new subparagraph:

1 “(C) TREATMENT OF QUESTIONNAIRES.—
2 The Secretary may not fail to make payment
3 under subparagraph (A) solely on the ground
4 that an individual failed to complete a question-
5 naire concerning the existence of a primary
6 plan.”.

7 (2) MANDATORY SCREENING BY PROVIDERS
8 AND SUPPLIERS UNDER PART B.—

9 (A) IN GENERAL.—Section 1862(b) (42
10 U.S.C. 1395y(b)) is amended by adding at the
11 end the following new paragraph:

12 “(6) SCREENING REQUIREMENTS FOR PROVID-
13 ERS AND SUPPLIERS.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this title, no payment may be
16 made for any item or service furnished under
17 part B unless the entity furnishing such item or
18 service completes (to the best of its knowledge
19 and on the basis of information obtained from
20 the individual to whom the item or service is
21 furnished) the portion of the claim form relat-
22 ing to the availability of other health benefit
23 plans.

24 “(B) PENALTIES.—An entity that know-
25 ingly, willfully, and repeatedly fails to complete

1 a claim form in accordance with subparagraph
2 (A) or provides inaccurate information relating
3 to the availability of other health benefit plans
4 on a claim form under such subparagraph shall
5 be subject to a civil money penalty of not to ex-
6 ceed \$2,000 for each such incident. The provi-
7 sions of section 1128A (other than subsections
8 (a) and (b)) shall apply to a civil money penalty
9 under the previous sentence in the same man-
10 ner as such provisions apply to a penalty or
11 proceeding under section 1128A(a).”.

12 (B) EFFECTIVE DATE.—The amendment
13 made by subparagraph (A) shall apply with re-
14 spect to items and services furnished on or
15 after January 1, 1994.

16 (g) IMPROVEMENTS IN RECOVERY OF PAYMENTS
17 FROM PRIMARY PAYERS.—

18 (1) SUBMISSION OF REPORTS ON EFFORTS TO
19 RECOVER ERRONEOUS PAYMENTS.—Section
20 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

21 (A) by striking “and” at the end of sub-
22 paragraph (H); and

23 (B) by inserting after subparagraph (H)
24 the following new subparagraph:

1 “(I) will submit annual reports to the Secretary
2 describing the steps taken to recover payments made
3 under this part for items or services for which pay-
4 ment has been or could be made under a primary
5 plan (as defined in section 1862(b)(2)(A)).”.

6 (2) REQUIREMENTS UNDER CARRIER PERFORM-
7 ANCE EVALUATION PROGRAM.—Section 1842(b)(2)
8 (42 U.S.C. 1395u(b)(2)) is amended by adding at
9 the end the following new subparagraph:

10 “(D) In addition to any other standards and criteria
11 established by the Secretary for evaluating carrier per-
12 formance under this paragraph relating to avoiding erro-
13 neous payments, the Secretary shall establish standards
14 and criteria relating to the carrier’s success in recovering
15 payments made under this part for items or services for
16 which payment has been or could be made under a pri-
17 mary plan (as defined in section 1862(b)(2)(A)).”.

18 (3) DEADLINE FOR REIMBURSEMENT BY PRI-
19 MARY PLANS.—

20 (A) IN GENERAL.—Section
21 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))
22 is amended by adding at the end the following
23 sentence: “If reimbursement is not made to the
24 appropriate Trust Fund before the expiration of
25 the 60-day period that begins on the date such

1 notice or other information is received, the Sec-
2 retary may charge interest (beginning with the
3 date on which the notice or other information
4 is received) on the amount of the reimburse-
5 ment until reimbursement is made (at a rate
6 determined by the Secretary in accordance with
7 regulations of the Secretary of the Treasury ap-
8 plicable to charges for late payments).”.

9 (B) CONFORMING AMENDMENT.—The
10 heading of clause (i) of section 1862(b)(2)(B) is
11 amended to read as follows: “REPAYMENT RE-
12 QUIRED.—”.

13 (C) EFFECTIVE DATE.—The amendments
14 made by this paragraph shall apply to payments
15 for items and services furnished on or after the
16 date of the enactment of this Act.

17 (4) EFFECTIVE DATE.—The amendments made
18 by paragraphs (1) and (2) shall apply to contracts
19 with fiscal intermediaries and carriers under title
20 XVIII of the Social Security Act for years beginning
21 with 1994.

22 (h) MISCELLANEOUS AND TECHNICAL CORREC-
23 TIONS.—

24 (1) The sentence in section 1862(b)(1)(C)
25 added by section 4203(c)(1)(B) of OBRA-1990 is

1 amended by striking “clauses (i) and (ii)” and in-
2 serting “this subparagraph”.

3 (2) Effective as if included in the enactment of
4 OBRA–1989, section 1862(b)(1) is amended—

5 (A) in subparagraphs (A)(v) and
6 (B)(iv)(II), by inserting “, without regard to
7 section 5000(d) of such Code” before the period
8 at the end of each subparagraph;

9 (B) in subparagraph (A)(iii), by striking
10 “current calendar year or the preceding cal-
11 endar year” and inserting “current calendar
12 year and the preceding calendar year”; and

13 (C) in the matter in subparagraph (C)
14 after clause (ii), by striking “taking into ac-
15 count that” and inserting “paying benefits sec-
16 ondary to this title when”.

17 (3) Section 1862(b)(5)(C)(i) (42 U.S.C.
18 1395y(b)(5)(C)(i)) is amended by striking
19 “6103(l)(12)(D)(iii)” and inserting
20 “6103(l)(12)(E)(iii)”.

21 (4) Section 4203(c)(2) of OBRA–1990 is
22 amended—

23 (A) by striking “the application of clause
24 (iii)” and inserting “the second sentence”;

1 (B) by striking “on individuals” and all
2 that follows through “section 226A of such
3 Act”;

4 (C) in clause (ii), by striking “clause” and
5 inserting “sentence”;

6 (D) in clause (v), by adding “and” at the
7 end; and

8 (E) in clause (vi)—

9 (i) by inserting “of such Act” after
10 “1862(b)(1)(C)”, and

11 (ii) by striking the period at the end
12 and inserting the following: “, without re-
13 gard to the number of employees covered
14 by such plans.”.

15 (5) Section 4203(d) of OBRA–1990 is amended
16 by striking “this subsection” and inserting “this sec-
17 tion”.

18 (6) Except as provided in paragraph (2), the
19 amendments made by this subsection shall be effec-
20 tive as if included in the enactment of OBRA–1990
21 and shall be executed before the amendments made
22 by subsections (a) through (d) of this section.

23 (i) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as otherwise pro-
25 vided in this section, the amendments made by this

1 section shall take effect on the date of the enactment
2 of this Act.

3 (2) ESRD AND UNIFORM SIZE RULES.—The
4 amendments made by subsections (c) and (d) apply
5 to items and services furnished on or after January
6 1, 1994.

7 **SEC. 5074. EXTENSION OF SELF-REFERRAL BAN TO ADDI-**
8 **TIONAL SPECIFIED SERVICES.**

9 (a) EXTENSION TO DESIGNATED HEALTH SERV-
10 ICES.—

11 (1) IN GENERAL.—Section 1877 (42 U.S.C.
12 1395nn) is amended—

13 (A) by striking “clinical laboratory serv-
14 ices” and “CLINICAL LABORATORY SERVICES”
15 and inserting “designated health services” and
16 “DESIGNATED HEALTH SERVICES”, respectively,
17 each place either appears in subsections (a)(1),
18 (b)(2)(A)(ii), (b)(4), (d)(1), and (d)(3); and

19 (B) by adding at the end the following new
20 subsection:

21 “(i) DESIGNATED HEALTH SERVICES DEFINED.—In
22 this section, the term ‘designated health services’ means—

23 “(1) clinical laboratory services;

24 “(2) physical or occupational therapy services;

25 “(3) radiology or other diagnostic services;

1 “(4) radiation therapy services;

2 “(5) the furnishing of durable medical equip-
3 ment;

4 “(6) the furnishing of parenteral and enteral
5 nutrition nutrients, supplies, and equipment;

6 “(7) home health services; and

7 “(8) home infusion therapy services.”.

8 (2) CONFORMING AMENDMENTS.—Section 1877
9 is further amended—

10 (A) in subsection (g)(1), by striking “clini-
11 cal laboratory service” and inserting “des-
12 ignated health service”, and

13 (B) in subsection (h)(7)(B), by striking
14 “clinical laboratory service” and inserting “des-
15 ignated health service”.

16 (b) MULTIPLE LOCATIONS FOR GROUP PRAC-
17 TICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C.
18 1395nn(b)(2)(A)(ii)(II)) is amended by striking “central-
19 ized provision” and inserting “provision of some or all”.

20 (c) TREATMENT OF COMPENSATION ARRANGE-
21 MENTS.—

22 (1) RENTAL OF OFFICE SPACE AND EQUIP-
23 MENT.—Paragraph (1) of section 1877(e) (42
24 U.S.C. 1395nn(e)) is amended to read as follows:

1 “(1) RENTAL OF OFFICE SPACE; RENTAL OF
2 EQUIPMENT.—

3 “(A) OFFICE SPACE.—Payments made by
4 a lessee to a lessor for the use of premises if—

5 “(i) the lease is set out in writing,
6 signed by the parties, and specifies the
7 premises covered by the lease,

8 “(ii) the aggregate space rented or
9 leased is reasonable and necessary for the
10 legitimate business purposes of the lease or
11 rental and is used exclusively by the lessee
12 when being used by the lessee,

13 “(iii) the lease provides for a term of
14 rental or lease for at least one year,

15 “(iv) the rental charges over the term
16 of the lease are set in advance, are consist-
17 ent with fair market value, and are not de-
18 termined in a manner that takes into ac-
19 count the volume or value of any referrals
20 or other business generated between the
21 parties,

22 “(v) the lease would be commercially
23 reasonable even if no referrals were made
24 between the parties,

1 “(vi) the lease covers all of the prem-
2 ises leased between the parties for the pe-
3 riod of the lease, and

4 “(vii) the compensation arrangement
5 meets such other requirements as the Sec-
6 retary may impose by regulation as needed
7 to protect against program or patient
8 abuse.

9 “(B) EQUIPMENT.—Payments made by a
10 lessee of equipment to the lessor of the equip-
11 ment for the use of the equipment if—

12 “(i) the lease is set out in writing,
13 signed by the parties, and specifies the
14 equipment covered by the lease,

15 “(ii) the equipment rented or leased is
16 reasonable and necessary for the legitimate
17 business purposes of the lease or rental
18 and is used exclusively by the lessee when
19 being used by the lessee,

20 “(iii) the lease provides for a term of
21 rental or lease of at least one year,

22 “(iv) the rental charges over the term
23 of the lease are set in advance, are consist-
24 ent with fair market value, and are not de-
25 termined in a manner that takes into ac-

1 count the volume or value of any referrals
2 or other business generated between the
3 parties,

4 “(v) the lease would be commercially
5 reasonable even if no referrals were made
6 between the parties,

7 “(vi) the lease covers all of the equip-
8 ment leased between the parties for the pe-
9 riod of the lease, and

10 “(vii) the compensation arrangement
11 meets such other requirements as the Sec-
12 retary may impose by regulation as needed
13 to protect against program or patient
14 abuse.”.

15 (2) BONA FIDE EMPLOYMENT RELATION-
16 SHIPS.—Section 1877(e)(2) (42 U.S.C.
17 1395nn(e)(2)) is amended—

18 (A) by striking “AND SERVICE” and “WITH
19 HOSPITALS”;

20 (B) by striking “An arrangement” and all
21 that follows through “if” and inserting “Any
22 amount paid by an employer to a physician (or
23 immediate family member) who has a bona fide
24 employment relationship with the employer for
25 the provision of services if”;

1 (C) in subparagraphs (A), (B), and (D), by
2 striking “arrangement” and inserting “employ-
3 ment”;

4 (D) in subparagraph (C), by striking “to
5 the hospital”; and

6 (E) by adding at the end the following:

7 “Subparagraph (B)(ii) shall not be construed as pro-
8 hibiting the payment of remuneration in the form of
9 shares of overall profits or in the form of a produc-
10 tivity bonus based on services performed personally
11 by the physician or member, if the amount of the re-
12 muneration is not determined in a manner that
13 takes into account directly the volume or value of
14 any referrals by the referring physician.”.

15 (3) PERSONAL SERVICE ARRANGEMENTS.—Sec-
16 tion 1877(e) is further amended by adding at the
17 end the following new paragraph:

18 “(7) PERSONAL SERVICE ARRANGEMENTS.—Re-
19 muneration from an entity under an arrangement
20 if—

21 “(A) the arrangement is set out in writing,
22 signed by the parties, and specifies the services
23 covered by the arrangement,

24 “(B) the arrangement covers all of the
25 services to be provided,

1 “(C) the aggregate services contracted for
2 do not exceed those that are reasonable and
3 necessary for the legitimate business purposes
4 of the arrangement,

5 “(D) the term of the arrangement is for at
6 least one year,

7 “(E) the compensation to be paid over the
8 term of the arrangement is set in advance, does
9 not exceed fair market value, and is not deter-
10 mined in a manner that takes into account the
11 volume or value of any referrals or other busi-
12 ness generated between the parties,

13 “(F) the services to be performed under
14 the arrangement do not involve the counseling
15 or promotion of a business arrangement of
16 other activity that violates any State or Federal
17 law, and

18 “(G) the arrangement meets such other re-
19 quirements as the Secretary may impose by reg-
20 ulation as needed to protect against program or
21 patient abuse.”.

22 (4) ADDITIONAL EXCEPTIONS.—Section
23 1877(e) is further amended by adding at the end the
24 following new paragraphs:

1 “(8) PAYMENTS BY A PHYSICIAN FOR ITEMS
2 AND SERVICES.—Payments made by a physician—

3 “(A) to a laboratory in exchange for the
4 provision of clinical laboratory services, or

5 “(B) to an entity as compensation for
6 other items or services if the items or services
7 are furnished at a price that is consistent with
8 fair market value.

9 “(9) PAYMENTS FOR PATHOLOGY SERVICES OF
10 A GROUP PRACTICE.—Payments made to a group
11 practice for pathology services under an agreement
12 if—

13 “(A) the agreement is set out in writing
14 and specifies the services to be provided by the
15 parties and the compensation for services pro-
16 vided under the agreement,

17 “(B) the compensation paid over the term
18 of the agreement is consistent with fair market
19 value and is not determined in a manner that
20 takes into account the volume or value of any
21 referrals or other business generated between
22 the parties,

23 “(C) the compensation is provided pursu-
24 ant to an agreement which would be commer-

1 cially reasonable even if no referrals were made
2 to the entity, and

3 “(D) the compensation arrangement be-
4 tween the parties meets such other require-
5 ments as the Secretary may impose by regula-
6 tion as needed to protect against program or
7 patient abuse.”.

8 (4) REFERRING PHYSICIANS.—Section
9 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is
10 amended—

11 (A) by inserting “a request by a radiologist
12 for diagnostic radiology services, and a request
13 by a radiation oncologist for radiation therapy,”
14 after “examination services,” and

15 (B) by inserting “, radiologist, or radiation
16 oncologist” after “pathologist” the second place
17 it appears.

18 (d) TREATMENT OF GROUP PRACTICES.—

19 (1) USE OF BILLING NUMBERS, ETC.—Section
20 1877 is amended—

21 (A) in subsection (b)(2)(B), by inserting
22 “under a billing number assigned to the group
23 practice” after “member”,

1 (B) in subsection (h)(4)(B), by inserting
2 “and under a billing number assigned to the
3 group” after “in the name of the group”, and

4 (C) in subsection (h)(4)(C), by striking
5 “by members of the group”.

6 (2) TREATMENT OF SERVICES UNDER AR-
7 RANGEMENTS BETWEEN HOSPITALS AND GROUP
8 PRACTICES.—

9 (A) IN GENERAL.—Section 1877(h)(4) (42
10 U.S.C. 1395nn(h)(4)) is amended—

11 (i) in subparagraph (B) (as amended
12 by paragraph (1)(B)), by inserting “(or
13 are billed in the name of a hospital for
14 which the group provides designated health
15 services pursuant to an arrangement that
16 meets the requirements of subparagraph
17 (B))” after “assigned to the group”;

18 (ii) by redesignating subparagraphs
19 (A) through (D) as clauses (i) through
20 (iv), respectively;

21 (iii) by inserting “(A)” after “.—”;

22 and

23 (iv) by adding at the end the following
24 new subparagraph:

1 “(B) The requirements of this subparagraph,
2 with respect to an arrangement for designated
3 health services provided by the group and billed in
4 the name of a hospital, are that—

5 “(i) with respect to services provided to an
6 inpatient of the hospital, the arrangement is
7 pursuant to the provision of inpatient hospital
8 services under section 1861(b)(3);

9 “(ii) the arrangement began before Decem-
10 ber 19, 1989, and has continued in effect with-
11 out interruption since such date;

12 “(iii) the group provides substantially all of
13 the designated health services to the hospital’s
14 patients;

15 “(iv) the arrangement is pursuant to an
16 agreement that is set out in writing and that
17 specifies the services to be provided by the par-
18 ties and the compensation for services provided
19 under the agreement;

20 “(v) the compensation paid over the term
21 of the agreement is consistent with fair market
22 value and the compensation per unit of services
23 is fixed in advance and is not determined in a
24 manner that takes into account the volume or

1 value of any referrals or other business gen-
2 erated between the parties;

3 “(vi) the compensation is provided pursu-
4 ant to an agreement which would be commer-
5 cially reasonable even if no referrals were made
6 to the entity; and

7 “(vii) the arrangement between the parties
8 meets such other requirements as the Secretary
9 may impose by regulation as needed to protect
10 against program or patient abuse.”.

11 (B) CONFORMING AMENDMENT.—Section
12 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is
13 amended by inserting “(or by a hospital for
14 which such a group practice provides designated
15 health services pursuant to an arrangement
16 that meets the requirements of subsection
17 (h)(4)(B))” before “, or by an entity”.

18 (3) TREATMENT OF CERTAIN FACULTY PRAC-
19 TICE PLANS.—The last sentence of section
20 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as re-
21 designated by paragraph (2)(A), is amended by in-
22 sserting “, institution of higher education, or medical
23 school” after “hospital”.

24 (e) EXPANDING RURAL PROVIDER EXCEPTION TO
25 COVER COMPENSATION ARRANGEMENTS.—

1 (1) IN GENERAL.—Section 1877(b) (42 U.S.C.
2 1395nn(b)) is amended—

3 (A) by redesignating paragraph (5) as
4 paragraph (7), and

5 (B) by inserting after paragraph (4) the
6 following new paragraph:

7 “(5) RURAL PROVIDERS.—In the case of des-
8 ignated services if—

9 “(A) the entity furnishing the services is in
10 a rural area (as defined in section
11 1886(d)(2)(D)), and

12 “(B) substantially all of the services fur-
13 nished by the entity to individuals entitled to
14 benefits under this title are furnished to such
15 individuals who reside in such a rural area.”.

16 (2) CONFORMING AMENDMENTS.—Section
17 1877(d) (42 U.S.C. 1395nn(d)) is amended—

18 (A) by striking paragraph (2), and

19 (B) by redesignating paragraph (3) as
20 paragraph (2).

21 (f) EXCEPTION FOR SHARED FACILITY LABORATORY
22 SERVICES.—

23 (1) IN GENERAL.—Section 1877 is amended—

1 (A) in subsection (b), as amended by sub-
2 section (e)(1), by inserting after paragraph (5)
3 the following new paragraph:

4 “(6) SHARED FACILITY LABORATORY SERV-
5 ICES.—

6 “(A) IN GENERAL.—In the case of shared
7 facility laboratory services of a shared facility—

8 “(i) that are furnished—

9 “(I) personally by the referring
10 physician who is a shared facility phy-
11 sician or personally by an individual
12 supervised by such a physician or by
13 another shared facility physician and
14 employed under the shared facility ar-
15 rangement,

16 “(II) by a shared facility in a
17 building in which the referring physi-
18 cian furnishes physician’s services un-
19 related to the furnishing of shared fa-
20 cility laboratory services, and

21 “(III) to a patient of a shared fa-
22 cility physician; and

23 “(ii) that are billed by the referring
24 physician or by an entity that is wholly
25 owned by such physician.

1 “(B) LIMITATION.—The exception under
2 this paragraph shall only apply to a shared fa-
3 cility only if the facility and the shared facility
4 arrangement were established as of June 26,
5 1992.”; and

6 (B) in subsection (h), by adding at the end
7 the following new paragraph:

8 “(8) SHARED FACILITY RELATED DEFINI-
9 TIONS.—

10 “(A) SHARED FACILITY LABORATORY
11 SERVICES.—The term ‘shared facility laboratory
12 services’ means, with respect to a shared facil-
13 ity, clinical laboratory services furnished by the
14 facility to patients of shared facility physicians.

15 “(B) SHARED FACILITY.—The term
16 ‘shared facility’ means an entity that furnishes
17 shared facility laboratory services under a
18 shared facility arrangement.

19 “(C) SHARED FACILITY PHYSICIAN.—The
20 term ‘shared facility physician’ means, with re-
21 spect to a shared facility, a physician who has
22 a financial relationship under a shared facility
23 arrangement with the facility.

24 “(D) SHARED FACILITY ARRANGEMENT.—
25 The term ‘shared facility arrangement’ means,

1 with respect to the provision of shared facility
2 laboratory services in a building, a financial ar-
3 rangement—

4 “(i) which is only between physicians
5 who are providing services (unrelated to
6 shared facility laboratory services) in the
7 same building,

8 “(ii) in which the overhead expenses
9 of the facility are shared, in accordance
10 with methods previously determined by the
11 physicians in the arrangement, among the
12 physicians in the arrangement, and

13 “(iii) which, in the case of a corpora-
14 tion, is wholly owned and controlled by
15 shared facility physicians.”.

16 (2) GAO STUDY OF SHARED FACILITY AR-
17 RANGEMENTS.—

18 (A) IN GENERAL.—The Comptroller Gen-
19 eral shall analyze the effect on the utilization of
20 health services of shared facility arrangements
21 for which an exception is provided under the
22 amendments made by paragraph (1). The anal-
23 ysis shall include a review of the effect of the
24 limitation, described in section 1877(b)(6)(B) of
25 the Social Security Act (as added by paragraph

1 (1)), with respect to such exception and on the
2 availability of services (including hematology
3 services).

4 (B) REPORT.—Not later than January 1,
5 1995, the Comptroller General shall submit a
6 report to Congress on the analysis conducted
7 under subparagraph (A). The report shall in-
8 clude recommendations with respect to chang-
9 ing the limitation.

10 (g) EXEMPTION OF COMPENSATION ARRANGEMENTS
11 INVOLVING CERTAIN TYPES OF REMUNERATION.—Sec-
12 tion 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

13 (1) by striking subparagraph (B);

14 (2) in subparagraph (A), by inserting before the
15 period the following: “(other than an arrangement
16 involving only remuneration described in subpara-
17 graph (B))”; and

18 (3) by adding at the end the following new sub-
19 paragraph:

20 “(B) Remuneration described in this subpara-
21 graph is any remuneration consisting of any of the
22 following:

23 “(i) The forgiveness of amounts owed for
24 inaccurate tests or procedures, mistakenly per-

1 formed tests or procedures, or the correction of
2 minor billing errors.

3 “(ii) The provision of items, devices, or
4 supplies that are used solely to—

5 “(I) collect, transport, process, or
6 store specimens for the entity providing
7 the item, device, or supply, or

8 “(II) communicate the results of tests
9 or procedures for such entity.”.

10 (h) EXCEPTION FOR PUBLICLY-TRADED SECURI-
11 TIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(d)(2)) is
12 amended by striking “total assets exceeding
13 \$100,000,000” and inserting “stockholder equity exceed-
14 ing \$75,000,000”.

15 (i) MISCELLANEOUS AND TECHNICAL CORREC-
16 TIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

17 (1) in subsection (b)(2)(A)(i), in subparagraph
18 (A)(i), by striking “who are employed by such physi-
19 cian or group practice and who are personally” and
20 inserting “who are directly”;

21 (2) in the fourth sentence of subsection (f)—

22 (A) by striking “provided” and inserting
23 “furnished”, and

24 (B) by striking “provides” and inserting
25 “furnish”;

1 (3) in the fifth sentence of subsection (f)—

2 (A) by striking “providing” each place it
3 appears and inserting “furnishing”,

4 (B) by striking “with respect to the provid-
5 ers” and inserting “with respect to the enti-
6 ties”, and

7 (C) by striking “diagnostic imaging serv-
8 ices of any type” and inserting “magnetic reso-
9 nance imaging, computerized axial tomography
10 scans, and ultrasound services”; and

11 (4) in subsection (a)(2)(B), by striking “sub-
12 section (h)(1)(A)” and inserting “subsection (h)(1)”.

13 (j) EFFECTIVE DATES.—

14 (1) The amendments made by subsection (a)
15 apply with respect to a referral by a physician for
16 designated health services (as described in section
17 1877(i) of the Social Security Act) made after De-
18 cember 31, 1994.

19 (2) The amendments made by this section
20 (other than subsection (a)) shall apply to referrals
21 made on or after January 1, 1992.

22 **SEC. 5075. REDUCTION IN PAYMENT FOR ERYTHRO-**
23 **POIETIN.**

24 (a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42
25 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

1 (1) by striking “1991” and inserting “1994”,
2 and

3 (2) by striking “\$11” and inserting “\$10”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) apply to erythropoietin furnished after
6 1993.

7 **SEC. 5076. MEDICARE HOSPITAL AGREEMENTS WITH**
8 **ORGAN PROCUREMENT ORGANIZATIONS.**

9 (a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C.
10 1320b–8(a)(1)) is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (A),

13 (2) by striking the period at the end of sub-
14 paragraph (B) and inserting “; and”, and

15 (3) by adding at the end the following new sub-
16 paragraph:

17 “(C) in the case of a hospital or rural primary
18 care hospital that has in effect an agreement (de-
19 scribed in section 371(b)(3)(A) of the Public Health
20 Service Act) with an organ procurement organiza-
21 tion, the agreement is with such organization for the
22 service area in which the hospital is located (as es-
23 tablished under such section).”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall apply to hospitals participating in the

1 programs under titles XVIII and XIX of the Social Secu-
2 rity Act as of January 1, 1994.

3 **SEC. 5077. EXTENSION OF WAIVER FOR WATTS HEALTH**
4 **FOUNDATION.**

5 Section 9312(c)(3)(D) of OBRA–1986, as added by
6 section 4018(d) of OBRA–1987 and as amended by sec-
7 tion 6212(a)(1) of OBRA–1989, is amended by striking
8 “1994” and inserting “1996”.

9 **SEC. 5078. IMPROVED OUTREACH FOR QUALIFIED MEDI-**
10 **CARE BENEFICIARIES.**

11 The Secretary of Health and Human Services shall
12 establish and implement a method for obtaining informa-
13 tion from newly eligible medicare beneficiaries that may
14 be used to determine whether such beneficiaries may be
15 eligible for medical assistance for medicare cost-sharing
16 under State medicaid plans as qualified medicare bene-
17 ficiaries, and for transmitting such information to the
18 State in which such a beneficiary resides.

19 **SEC. 5079. SOCIAL HEALTH MAINTENANCE ORGANIZA-**
20 **TIONS.**

21 (a) EXTENSION OF CURRENT WAIVERS.—Section
22 4018(b) of OBRA–1987, as amended by section
23 4207(b)(4) of OBRA–1990, is amended—

24 (1) in paragraph (1) by striking “December 31,
25 1995” and inserting “December 31, 1997”; and

1 (2) in paragraph (4) by striking “March 31,
2 1996” and inserting “March 31, 1998”.

3 (b) EXPANSION OF DEMONSTRATIONS.—Section
4 2355 of the Deficit Reduction Act of 1984, as amended
5 by section 4207(b)(4)(B) of OBRA-1990, is amended—

6 (1) in the last sentence of subsection (a) by
7 striking “12 months” and inserting “36 months”;
8 and

9 (2) in subsection (b)(1)(B)—

10 (A) by striking “or” at the end of clause
11 (iii), and

12 (B) by redesignating clause (iv) as clause
13 (v) and inserting after clause (iii) the following
14 new clause:

15 “(iv) integrating acute and chronic
16 care management for patients with end-
17 stage renal disease through expanded com-
18 munity care case management services
19 (and for purposes of a demonstration
20 project conducted under this clause, any
21 requirement under a waiver granted under
22 this section that a project disenroll individ-
23 uals who develop end-stage renal disease
24 shall not apply); or”.

1 (c) EXPANSION OF NUMBER OF MEMBERS PER
2 SITE.—The Secretary of Health and Human Services may
3 not impose a limit of less than 12,000 on the number of
4 individuals that may participate in a project conducted
5 under section 2355 of the Deficit Reduction Act of 1984.

6 (d) MISCELLANEOUS AND TECHNICAL CORREC-
7 TIONS.—

8 (1) The section following section 4206 of
9 OBRA–1990 is amended by striking “SEC. 4027.”
10 and inserting “SEC. 4207.”, and in this subtitle is
11 referred to as section 4207 of OBRA–1990.

12 (2) Section 2355(b)(1)(B) of the Deficit Reduc-
13 tion Act of 1984, as amended by section
14 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

15 (A) by striking “12907(c)(4)(A)” and in-
16 serting “4207(b)(4)(B)(i)”, and

17 (B) by striking “feasibilitly” and inserting
18 “feasibility”.

19 (3) Section 4207(b)(4)(B)(iii)(III) of OBRA–
20 1990 is amended by striking the period at the end
21 and inserting a semicolon.

22 (4) Subsections (c)(3) and (e) of section 2355
23 of the Deficit Reduction Act of 1984, as amended by
24 section 4207(b)(4)(B) of OBRA–1990, are each

1 amended by striking “12907(c)(4)(A)” each place it
2 appears and inserting “4207(b)(4)(B)”.

3 (5) Section 4207(c)(2) of OBRA–1990 is
4 amended by striking “the Committee on Ways and
5 Means” each place it appears and inserting “the
6 Committees on Ways and Means and Energy and
7 Commerce”.

8 (6) Section 4207(d) of OBRA–1990 is amended
9 by redesignating the second paragraph (3) (relating
10 to effective date) as paragraph (4).

11 (7) Section 4207(i)(2) of OBRA–1990 is
12 amended—

13 (A) by striking the period at the end of
14 clause (iii) and inserting a semicolon, and

15 (B) in clause (v), by striking “residents”
16 and inserting “patients”.

17 (8) Section 4207(j) of OBRA–1990 is amended
18 by striking “title” each place it appears and insert-
19 ing “subtitle”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect as if included in the enact-
22 ment of OBRA–1990.

23 **SEC. 5080. PEER REVIEW ORGANIZATIONS.**

24 (a) REPEAL OF PRO PRECERTIFICATION REQUIRE-
25 MENT FOR CERTAIN SURGICAL PROCEDURES.—

1 (1) IN GENERAL.—Section 1164 (42 U.S.C.
2 1320c–13) is repealed.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 1154 (42 U.S.C. 1320c–3) is
5 amended—

6 (i) in subsection (a), by striking para-
7 graph (12), and

8 (ii) in subsection (d), by striking
9 “(and except as provided in section
10 1164)”.

11 (B) Section 1833 (42 U.S.C. 1395l) is
12 amended—

13 (i) in subsection (a)(1)(D)(i), by strik-
14 ing “, or for tests furnished in connection
15 with obtaining a second opinion required
16 under section 1164(c)(2) (or a third opin-
17 ion, if the second opinion was in disagree-
18 ment with the first opinion)”;

19 (ii) in subsection (a)(1), by striking
20 clause (G);

21 (iii) in subsection (a)(2)(A), by strik-
22 ing “to items and services (other than clin-
23 ical diagnostic laboratory tests) furnished
24 in connection with obtaining a second opin-
25 ion required under section 1164(c)(2) (or a

1 third opinion, if the second opinion was in
2 disagreement with the first opinion),”;

3 (iv) in subsection (a)(2)(D)(i)—

4 (I) by striking “related basis,”
5 and inserting “related basis or”, and

6 (II) by striking “, or for tests
7 furnished in connection with obtaining
8 a second opinion required under sec-
9 tion 1164(c)(2) (or a third opinion, if
10 the second opinion was in disagree-
11 ment with the first opinion)”;

12 (v) in subsection (a)(3), by striking
13 “and for items and services furnished in
14 connection with obtaining a second opinion
15 required under section 1164(c)(2), or a
16 third opinion, if the second opinion was in
17 disagreement with the first opinion”;

18 (vi) in the first sentence of subsection
19 (b), by striking “(4)” and all that follows
20 through “and (5)” and inserting “and
21 (4)”.

22 (C) Section 1834(g)(1)(B) (42 U.S.C.
23 1395m(g)(1)(B)) is amended by striking “and
24 for items and services furnished in connection
25 with obtaining a second opinion required under

1 section 1164(c)(2), or a third opinion, if the
2 second opinion was in disagreement with the
3 first opinion)”.
4

5 (D) Section 1862(a) (42 U.S.C. 1395y(a))
is amended—

6 (i) by adding “or” at the end of para-
7 graph (14),

8 (ii) by striking “; or” at the end of
9 paragraph (15) and inserting a period, and

10 (iii) by striking paragraph (16).

11 (E) The third sentence of section
12 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is
13 amended by striking “, with respect to items
14 and services furnished in connection with ob-
15 taining a second opinion required under section
16 1164(c)(2) (or a third opinion, if the second
17 opinion was in disagreement with the first opin-
18 ion),”.

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply to services provided on
21 or after the date of the enactment of this Act.

22 (b) MISCELLANEOUS AND TECHNICAL CORREC-
23 TIONS.—(1) The third sentence of section 1156(b)(1) (42
24 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter”
25 and inserting “whether”.

1 (2)(A) Subparagraph (B) of section 1154(a)(9) (42
2 U.S.C. 1320c-3(a)(9)) is amended to read as follows:

3 “(B) If the organization finds, after reasonable
4 notice and opportunity for discussion with the physi-
5 cian or practitioner concerned, that the physician or
6 practitioner has furnished services in violation of
7 section 1156(a), the organization shall notify the
8 State board or boards responsible for the licensing
9 or disciplining of the physician or practitioner of its
10 finding and of any action taken as a result of the
11 finding.”.

12 (B) Subparagraph (D) of section 1160(b)(1) (42
13 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

14 “(D) to provide notice in accordance with
15 section 1154(a)(9)(B);”.

16 (3) Section 4205(d)(2)(B) of OBRA-1990 is amend-
17 ed by striking “amendments” and inserting “amend-
18 ment”.

19 (4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is
20 amended by striking “subpena” and inserting “subpoena”.

21 (5) Section 4205(e)(2) of OBRA-1990 is amended
22 by striking “amendments” and inserting “amendment”
23 and by striking “all”.

1 (6)(A) Except as provided in subparagraph (B), the
2 amendments made by this subsection shall take effect as
3 if included in the enactment of OBRA–1990.

4 (B) The amendments made by paragraph (2) (relat-
5 ing to the requirement on reporting of information to
6 State boards) shall take effect on the date of the enact-
7 ment of this Act.

8 **SEC. 5081. HOSPICE INFORMATION TO HOME HEALTH**
9 **BENEFICIARIES.**

10 (a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C.
11 1395bbb(a)(1)) is amended by adding at the end the fol-
12 lowing new subparagraph:

13 “(H) The right, in the case of a resident
14 who is entitled to benefits under this title, to be
15 fully informed orally and in writing (at the time
16 of coming under the care of the agency) of the
17 entitlement of individuals to hospice care under
18 section 1812(a)(4) (unless there is no hospice
19 program providing hospice care for which pay-
20 ment may be made under this title within the
21 geographic area of the facility and it is not the
22 common practice of the agency to refer patients
23 to hospice programs located outside such geo-
24 graphic area).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to services furnished on or after
3 the first day of the first month beginning more than one
4 year after the date of the enactment of this Act.

5 **SEC. 5082. HEALTH MAINTENANCE ORGANIZATIONS.**

6 (a) ADJUSTMENT IN MEDICARE CAPITATION PAY-
7 MENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN AP-
8 PPLICATION OF SECONDARY PAYER PROVISIONS.—

9 (1) IN GENERAL.—Section 1876(a)(4) (42
10 U.S.C. 1395mm(a)(4)) is amended by adding at the
11 end the following new sentence: “In establishing the
12 adjusted average per capita cost for a geographic
13 area, the Secretary shall take into account the dif-
14 ferences between the proportion of individuals in the
15 area with respect to whom there is a group health
16 plan that is a primary plan (within the meaning of
17 section 1862(b)(2)(A)) compared to the proportion
18 of all such individuals with respect to whom there is
19 such a group health plan.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply to contracts entered
22 into for years beginning with 1994.

23 (b) REVISIONS IN THE PAYMENT METHODOLOGY
24 FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-
25 1990 is amended to read as follows:

1 “(b) REVISIONS IN THE PAYMENT METHODOLOGY
2 FOR RISK CONTRACTORS.—(1)(A) Not later than January
3 1, 1995, the Secretary of Health and Human Services (in
4 this subsection referred to as the “Secretary”) shall sub-
5 mit a proposal to the Congress that provides for revisions
6 to the payment method to be applied in years beginning
7 with 1996 for organizations with a risk-sharing contract
8 under section 1876(g) of the Social Security Act.

9 “(B) In proposing the revisions required under sub-
10 paragraph (A) the Secretary shall consider—

11 “(i) the difference in costs associated with med-
12 icare beneficiaries with differing health status and
13 demographic characteristics; and

14 “(ii) the effects of using alternative geographic
15 classifications on the determinations of costs associ-
16 ated with beneficiaries residing in different areas.

17 “(2) Not later than 3 months after the date of sub-
18 mittal of the proposal made pursuant to paragraph (1),
19 the Comptroller General shall review the proposal and
20 shall report to Congress on the appropriateness of the pro-
21 posed modifications.”.

22 (c) MISCELLANEOUS AND TECHNICAL CORREC-
23 TIONS.—(1) Section 1876(a)(3) (42 U.S.C.
24 1395mm(a)(3)) is amended by striking “subsection

1 (c)(7)” and inserting “subsections (c)(2)(B)(ii) and
2 (c)(7)”.

3 (2) Section 4204(c)(3) of OBRA-1990 is amended
4 by striking “for 1991” and inserting “for years beginning
5 with 1991”.

6 (3) Section 4204(d)(2) of OBRA-1990 is amended
7 by striking “amendment” and inserting “amendments”.

8 (4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C.
9 1395mm(a)(1)(E)(ii)(I)) is amended by striking the
10 comma after “contributed to”.

11 (5) Section 4204(e)(2) of OBRA-1990 is amended
12 by striking “(which has a risk-sharing contract under sec-
13 tion 1876 of the Social Security Act)”.

14 (6) Section 4204(f)(4) of OBRA-1990 is amended by
15 striking “final”.

16 (7) Section 1862(b)(3)(C) (42 U.S.C.
17 1395y(b)(3)(C)) is amended—

18 (A) in the heading, by striking “PLAN” and in-
19 serting “PLAN OR A LARGE GROUP HEALTH PLAN”;

20 (B) by striking “group health plan” and insert-
21 ing “group health plan or a large group health
22 plan”;

23 (C) by striking “, unless such incentive is also
24 offered to all individuals who are eligible for cov-
25 erage under the plan”; and

1 (D) by striking “the first sentence of subsection
2 (a) and other than subsection (b)” and inserting
3 “subsections (a) and (b)”.

4 (8) The amendments made by this subsection shall
5 take effect as if included in the enactment of OBRA-1990.

6 **SEC. 5083. MISCELLANEOUS AND TECHNICAL CORREC-**
7 **TIONS.**

8 (a) SURVEY AND CERTIFICATION REQUIREMENTS.—

9 (1) Section 1864 (42 U.S.C. 1395aa) is amended—

10 (A) in subsection (e), by striking “title” and in-
11 sserting “title (other than any fee relating to section
12 353 of the Public Health Service Act)”; and

13 (B) in the first sentence of subsection (a), by
14 striking “1861(s) or” and all that follows through
15 “Service Act,” and inserting “1861(s),”.

16 (2) An agreement made by the Secretary of Health
17 and Human Services with a State under section 1864(a)
18 of the Social Security Act may include an agreement that
19 the services of the State health agency or other appro-
20 priate State agency (or the appropriate local agencies) will
21 be utilized by the Secretary for the purpose of determining
22 whether a laboratory meets the requirements of section
23 353 of the Public Health Service Act.

24 (b) OTHER MISCELLANEOUS AND TECHNICAL PRO-
25 VISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended

1 by redesignating the subsection (r) added by section
2 4206(b)(2) of OBRA–1990 as subsection (s).

3 (2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is
4 amended by striking “1833(r)” and inserting “1833(s)”.

5 (3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is
6 amended by moving subparagraph (O), as redesignated by
7 section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to
8 the left.

9 (4) Section 1881(b)(1)(C) (42 U.S.C.
10 1395rr(b)(1)(C)) is amended by striking “1861(s)(2)(Q)”
11 and inserting “1861(s)(2)(P)”.

12 (5) Section 4201(d)(2) of OBRA–1990 is amended
13 by striking “(B) by striking”, “(C) by striking”, and “(3)
14 by adding” and inserting “(i) by striking”, “(ii) by strik-
15 ing”, and “(B) by adding”, respectively.

16 (6)(A) Section 4207(a)(1) of OBRA–1990 is amend-
17 ed by adding closing quotation marks and a period after
18 “such review.”.

19 (B) Section 4207(a)(4) of OBRA–1990 is amended
20 by striking “this subsection” and inserting “paragraphs
21 (2) and (3)”.

22 (C) Section 4207(b)(1) of OBRA–1990 is amended
23 by striking “section 3(7)” and inserting “section
24 601(a)(1)”.

25 (7) Section 4202 of OBRA–1990 is amended—

1 (A) in subsection (b)(1)(A), by striking “home
2 hemodialysis staff assistant” and inserting “quali-
3 fied home hemodialysis staff assistant (as described
4 in subsection (d))”;

5 (B) in subsection (b)(2)(B)(ii)(I), by striking
6 “(as adjusted to reflect differences in area wage lev-
7 els)”;

8 (C) in subsection (c)(1)(A), by striking
9 “skilled”; and

10 (D) in subsection (c)(1)(E), by striking
11 “(b)(4)” and inserting “(b)(2)”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if included in the enact-
14 ment of OBRA–1990.

15 **CHAPTER 3—PROVISIONS RELATING TO**
16 **MEDICARE SUPPLEMENTAL INSUR-**
17 **ANCE POLICIES**

18 **SEC. 5091. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-**
19 **SURANCE POLICIES.**

20 (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL
21 POLICIES.—

22 (1) Section 4351 of OBRA–1990 is amended by
23 striking “(a) IN GENERAL.—”.

24 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is
25 amended—

1 (A) in paragraph (1)(A)—

2 (i) by striking “promulgates” and in-
3 sserting “changes the revised NAIC Model
4 Regulation (described in subsection (m)) to
5 incorporate”,

6 (ii) by striking “(such limitations, lan-
7 guage, definitions, format, and standards
8 referred to collectively in this subsection as
9 ‘NAIC standards’),”, and

10 (iii) by striking “included a reference
11 to the NAIC standards” and inserting
12 “were a reference to the revised NAIC
13 Model Regulation as changed under this
14 subparagraph (such changed regulation re-
15 ferred to in this section as the ‘1991 NAIC
16 Model Regulation’)”;

17 (B) in paragraph (1)(B)—

18 (i) by striking “promulgate NAIC
19 standards” and inserting “make the
20 changes in the revised NAIC Model Regu-
21 lation”,

22 (ii) by striking “limitations, language,
23 definitions, format, and standards de-
24 scribed in clauses (i) through (iv) of such
25 subparagraph (in this subsection referred

1 to collectively as ‘Federal standards’)” and
2 inserting “a regulation”, and

3 (iii) by striking “included a reference
4 to the Federal standards” and inserting
5 “were a reference to the revised NAIC
6 Model Regulation as changed by the Sec-
7 retary under this subparagraph (such
8 changed regulation referred to in this sec-
9 tion as the ‘1991 Federal Regulation’)”;

10 (C) in paragraph (1)(C)(i), by striking
11 “NAIC standards or the Federal standards”
12 and inserting “1991 NAIC Model Regulation or
13 1991 Federal Regulation”;

14 (D) in paragraphs (1)(C)(ii)(I), (1)(E),
15 (2), and (9)(B), by striking “NAIC or Federal
16 standards” and inserting “1991 NAIC Model
17 Regulation or 1991 Federal Regulation”;

18 (E) in paragraph (2)(C), by striking
19 “(5)(B)” and inserting “(4)(B)”;

20 (F) in paragraph (4)(A)(i), by inserting
21 “or paragraph (6)” after “(B)”;

22 (G) in paragraph (4), by striking “applica-
23 ble standards” each place it appears and insert-
24 ing “applicable 1991 NAIC Model Regulation
25 or 1991 Federal Regulation”;

1 (H) in paragraph (6), by striking “in re-
2 gard to the limitation of benefits described in
3 paragraph (4)” and inserting “described in
4 clauses (i) through (iii) of paragraph (1)(A)”;

5 (I) in paragraph (7), by striking “policy-
6 holder” and inserting “policyholders”;

7 (J) in paragraph (8), by striking “after the
8 effective date of the NAIC or Federal standards
9 with respect to the policy, in violation of the
10 previous requirements of this subsection” and
11 inserting “on and after the effective date speci-
12 fied in paragraph (1)(C) (but subject to para-
13 graph (10)), in violation of the applicable 1991
14 NAIC Model Regulation or 1991 Federal Regu-
15 lation insofar as such regulation relates to the
16 requirements of subsection (o) or (q) or clause
17 (i), (ii), or (iii) of paragraph (1)(A)”;

18 (K) in paragraph (9), by adding at the end
19 the following new subparagraph:

20 “(D) Subject to paragraph (10), this paragraph shall
21 apply to sales of policies occurring on or after the effective
22 date specified in paragraph (1)(C).”; and

23 (L) in paragraph (10), by striking “this
24 subsection” and inserting “paragraph
25 (1)(A)(i)”.

1 (b) GUARANTEED RENEWABILITY.—Section 1882(q)
2 (42 U.S.C. 1395ss(q)) is amended—

3 (1) in paragraph (2), by striking “paragraph
4 (2)” and inserting “paragraph (4)”, and

5 (2) in paragraph (4), by striking “the succeed-
6 ing issuer” and inserting “issuer of the replacement
7 policy”.

8 (c) ENFORCEMENT OF STANDARDS.—

9 (1) Section 1882(a)(2) (42 U.S.C.
10 1395ss(a)(2)) is amended—

11 (A) in subparagraph (A), by striking
12 “NAIC standards or the Federal standards”
13 and inserting “1991 NAIC Model Regulation or
14 1991 Federal Regulation”, and

15 (B) by striking “after the effective date of
16 the NAIC or Federal standards with respect to
17 the policy” and inserting “on and after the ef-
18 fective date specified in subsection (p)(1)(C)”.

19 (2) The sentence in section 1882(b)(1) added
20 by section 4353(c)(5) of OBRA-1990 is amended—

21 (A) by striking “The report” and inserting
22 “Each report”,

23 (B) by inserting “and requirements” after
24 “standards”,

1 (C) by striking “and” after “compliance,”
2 and

3 (D) by striking the comma after “Commis-
4 sioners”.

5 (3) Section 1882(g)(2)(B) (42 U.S.C.
6 1395ss(g)(2)(B)) is amended by striking “Panel”
7 and inserting “Secretary”.

8 (4) Section 1882(b)(1) (42 U.S.C.
9 1395ss(b)(1)) is amended by striking “the the Sec-
10 retary” and inserting “the Secretary”.

11 (d) PREVENTING DUPLICATION.—

12 (1) Section 1882(d)(3)(A) (42 U.S.C.
13 1395ss(d)(3)(A)) is amended—

14 (A) by amending the first sentence to read
15 as follows:

16 “(i) It is unlawful for a person to sell or issue to an
17 individual entitled to benefits under part A or enrolled
18 under part B of this title—

19 “(I) a health insurance policy with knowledge
20 that the policy duplicates health benefits to which
21 the individual is otherwise entitled under this title or
22 title XIX,

23 “(II) a medicare supplemental policy with
24 knowledge that the individual is entitled to benefits
25 under another medicare supplemental policy, or

1 “(III) a health insurance policy (other than a
2 medicare supplemental policy) with knowledge that
3 the policy duplicates health benefits to which the in-
4 dividual is otherwise entitled, other than benefits to
5 which the individual is entitled under a requirement
6 of State or Federal law.”;

7 (B) by designating the second sentence as
8 clause (ii) and, in such clause, by striking “the
9 previous sentence” and inserting “clause (i)”;

10 (C) by designating the third sentence as
11 clause (iii) and, in such clause—

12 (i) by striking “the previous sentence”
13 and inserting “clause (i) with respect to
14 the sale of a medicare supplemental pol-
15 icy”, and

16 (ii) by striking “and the statement”
17 and all that follows up to the period at the
18 end; and

19 (D) by striking the last sentence.

20 (2) Section 1882(d)(3)(B) (42 U.S.C.
21 1395ss(d)(3)(B)) is amended—

22 (A) in clause (ii)(II), by striking “65 years
23 of age or older”,

24 (B) in clause (iii)(I), by striking “another
25 medicare” and inserting “a medicare”,

1 (C) in clause (iii)(I), by striking “such a
2 policy” and inserting “a medicare supplemental
3 policy”,

4 (D) in clause (iii)(II), by striking “another
5 policy” and inserting “a medicare supplemental
6 policy”, and

7 (E) by amending subclause (III) of clause
8 (iii) to read as follows:

9 “(III) If the statement required by clause (i) is ob-
10 tained and indicates that the individual is entitled to any
11 medical assistance under title XIX, the sale of the policy
12 is not in violation of clause (i) (insofar as such clause re-
13 lates to such medical assistance), if a State medicaid plan
14 under such title pays the premiums for the policy, or, in
15 the case of a qualified medicare beneficiary described in
16 section 1905(p)(1), if the State pays less than the full
17 amount of medicare cost-sharing as described in subpara-
18 graphs (B), (C), and (D) of section 1905(p)(3) for such
19 individual.”.

20 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.
21 1395ss(d)(3)(C)) is amended—

22 (i) by striking “the selling” and inserting
23 “(i) the sale or issuance”, and

24 (ii) by inserting before the period at the
25 end the following: “, (ii) the sale or issuance of

1 a policy or plan described in subparagraph
2 (A)(i)(I) (other than a medicare supplemental
3 policy to an individual entitled to any medical
4 assistance under title XIX) under which all the
5 benefits are fully payable directly to or on be-
6 half of the individual without regard to other
7 health benefit coverage of the individual but
8 only if (for policies sold or issued more than 60
9 days after the date the statements are pub-
10 lished or promulgated under subparagraph (D))
11 there is disclosed in a prominent manner as
12 part of (or together with) the application the
13 applicable statement (specified under subpara-
14 graph (D)) of the extent to which benefits pay-
15 able under the policy or plan duplicate benefits
16 under this title, or (iii) the sale or issuance of
17 a policy or plan described in subparagraph
18 (A)(i)(III) under which all the benefits are fully
19 payable directly to or on behalf of the individual
20 without regard to other health benefit coverage
21 of the individual”.

22 (B) Section 1882(d)(3) (42 U.S.C.
23 1395ss(d)(3)) is amended by adding at the end the
24 following:

25 “(D)(i) If—

1 “(I) within the 90-day period beginning on the
2 date of the enactment of this subparagraph, the Na-
3 tional Association of Insurance Commissioners devel-
4 ops (after consultation with consumer and insurance
5 industry representatives) and submits to the Sec-
6 retary a statement for each of the types of health in-
7 surance policies (other than medicare supplemental
8 policies and including, as separate types of policies,
9 policies paying directly to the beneficiary fixed, cash
10 benefits) which are sold to persons entitled to health
11 benefits under this title, of the extent to which bene-
12 fits payable under the policy or plan duplicate bene-
13 fits under this title, and

14 “(II) the Secretary approves all the statements
15 submitted as meeting the requirements of subclause
16 (I),

17 each such statement shall be (for purposes of subpara-
18 graph (C)) the statement specified under this subpara-
19 graph for the type of policy involved. The Secretary shall
20 review and approve (or disapprove) all the statements sub-
21 mitted under subclause (I) within 30 days after the date
22 of their submittal. Upon approval of such statements, the
23 Secretary shall publish such statements.

24 “(ii) If the Secretary does not approve the statements
25 under clause (i) or the statements are not submitted with-

1 in the 90-day period specified in such clause, the Secretary
2 shall promulgate (after consultation with consumer and
3 insurance industry representatives and not later than 90
4 days after the date of disapproval or the end of such 90-
5 day period (as the case may be)) a statement for each
6 of the types of health insurance policies (other than medi-
7 care supplemental policies and including, as separate types
8 of policies, policies paying directly to the beneficiary fixed,
9 cash benefits) which are sold to persons entitled to health
10 benefits under this title, of the extent to which benefits
11 payable under the policy or plan duplicate benefits under
12 this title, and each such statement shall be (for purposes
13 of subparagraph (C)) the statement specified under this
14 subparagraph for the type of policy involved.”.

15 (C) The requirement of a disclosure under sec-
16 tion 1882(d)(3)(C)(ii) of the Social Security Act
17 shall not apply to an application made for a policy
18 or plan before 60 days after the date of the Sec-
19 retary of Health and Human Services publishes or
20 promulgates all the statements under section
21 1882(d)(3)(D) of such Act.

22 (4) Subparagraphs (A) and (B) of section
23 1882(q)(5) (42 U.S.C. 1395ss(q)(5)(A)) are amend-
24 ed by striking “of the Social Security Act”.

25 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

1 (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is
2 amended—

3 (A) in paragraph (1), by striking “or sold”
4 and inserting “or renewed (or otherwise provide
5 coverage after the date described in subsection
6 (p)(1)(C))”;

7 (B) in paragraph (1)(A), by inserting “for
8 periods after the effective date of these provi-
9 sions” after “the policy can be expected”;

10 (C) in paragraph (1)(A), by striking
11 “Commissioners,” and inserting “Commis-
12 sioners)”;

13 (D) in paragraph (1)(B), by inserting be-
14 fore the period at the end the following: “,
15 treating policies of the same type as a single
16 policy for each standard package”;

17 (E) by adding at the end of paragraph (1)
18 the following: “For the purpose of calculating
19 the refund or credit required under paragraph
20 (1)(B) for a policy issued before the date speci-
21 fied in subsection (p)(1)(C), the refund or cred-
22 it calculation shall be based on the aggregate
23 benefits provided and premiums collected under
24 all such policies issued by an insurer in a State
25 (separated as to individual and group policies)

1 and shall be based only on aggregate benefits
2 provided and premiums collected under such
3 policies after the date specified in section
4 5091(m)(4) of the Omnibus Budget Reconcili-
5 ation Act of 1993.”;

6 (F) in the first sentence of paragraph
7 (2)(A), by striking “by policy number” and in-
8 serting “by standard package”;

9 (G) by striking the second sentence of
10 paragraph (2)(A) and inserting the following:
11 “Paragraph (1)(B) shall not apply to a policy
12 until 12 months following issue.”;

13 (H) in the last sentence of paragraph
14 (2)(A), by striking “in order” and all that fol-
15 lows through “are effective”;

16 (I) by adding at the end of paragraph
17 (2)(A), the following new sentence: “In the case
18 of a policy issued before the date specified in
19 subsection (p)(1)(C), paragraph (1)(B) shall
20 not apply until 1 year after the date specified
21 in section 5091(m)(4) of the Omnibus Budget
22 Reconciliation Act of 1993.”;

23 (J) in paragraph (2), by striking “policy
24 year” each place it appears and inserting “cal-
25 endar year”;

1 (K) in paragraph (4), by striking “Feb-
2 ruary”, “disallowance”, “loss-ratios” each place
3 it appears, and “loss-ratio” and inserting “Oc-
4 tober”, “disallowance”, “loss ratios”, and “loss
5 ratio”, respectively;

6 (L) in paragraph (6)(A), by striking “is-
7 sues a policy in violation of the loss ratio re-
8 quirements of this subsection” and “such viola-
9 tion” and inserting “fails to provide refunds or
10 credits as required in paragraph (1)(B)” and
11 “policy issued for which such failure occurred”,
12 respectively; and

13 (M) in paragraph (6)(B), by striking “to
14 policyholders” and inserting “to the policy-
15 holder or, in the case of a group policy, to the
16 certificate holder”.

17 (2) Section 1882(b)(1) (42 U.S.C.
18 1395ss(b)(1)) is amended, in the matter after sub-
19 paragraph (H), by striking “subsection (F)” and in-
20 serting “subparagraph (F)”.

21 (3) Section 4355(d) of OBRA-1990 is amended
22 by striking “sold or issued” and all that follows and
23 inserting “issued or renewed (or otherwise providing
24 coverage after the date described in section
25 1882(p)(1)(C) of the Social Security Act) on or after

1 the date specified in section 1882(p)(1)(C) of such
2 Act.”.

3 (f) TREATMENT OF HMO’S.—

4 (1) Section 1882(g)(1) (42 U.S.C.
5 1395ss(g)(1)) is amended by striking “a health
6 maintenance organization or other direct service or-
7 ganization” and all that follows through “1833” and
8 inserting “an eligible organization (as defined in sec-
9 tion 1876(b)) if the policy or plan provides benefits
10 pursuant to a contract under section 1876 or an ap-
11 proved demonstration project described in section
12 603(c) of the Social Security Amendments of 1983,
13 section 2355 of the Deficit Reduction Act of 1984,
14 or section 9412(b) of the Omnibus Budget Reconcili-
15 ation Act of 1986 or, during the period beginning on
16 the date specified in subsection (p)(1)(C) and ending
17 on December 31, 1994, a policy or plan of an orga-
18 nization if the policy or plan provides benefits pursu-
19 ant to an agreement under section 1833(a)(1)(A)”.

20 (2) Section 4356(b) of OBRA-1990 is amended
21 by striking “on the date of the enactment of this
22 Act” and inserting “on the date specified in section
23 1882(p)(1)(C) of the Social Security Act”.

24 (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-
25 tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—

1 (1) in paragraph (2)(A), by striking “for which
2 an application is submitted” and inserting “in the
3 case of an individual for whom an application is sub-
4 mitted prior to or”,

5 (2) in paragraph (2)(A), by striking “in which
6 the individual (who is 65 years of age or older) first
7 is enrolled for benefits under part B” and inserting
8 “as of the first day on which the individual is 65
9 years of age or older and is enrolled for benefits
10 under part B”, and

11 (3) in paragraph (2)(B), by striking “before it”
12 and inserting “before the policy”.

13 (h) MEDICARE SELECT POLICIES.—

14 (1) Section 1882(t) (42 U.S.C. 1395ss(t)) is
15 amended—

16 (A) in paragraph (1), by inserting “medi-
17 care supplemental” after “If a”,

18 (B) in paragraph (1), by striking “NAIC
19 Model Standards” and inserting “1991 NAIC
20 Model Regulation or 1991 Federal Regulation”,

21 (C) in paragraph (1)(A), by inserting “or
22 agreements” after “contracts”,

23 (D) in subparagraphs (E)(i) and (F) of
24 paragraph (1), by striking “NAIC standards”
25 and inserting “standards in the 1991 NAIC

1 Model Regulation or 1991 Federal Regulation”,
2 and

3 (E) in paragraph (2), by inserting “the is-
4 suer” before “is subject to a civil money pen-
5 alty”.

6 (2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-
7 3(a)(4)(B)) is amended—

8 (A) by inserting “that is” after “(or”, and

9 (B) by striking “1882(t)” and inserting
10 “1882(t)(3)”.

11 (i) HEALTH INSURANCE COUNSELING.—Section
12 4360 of OBRA–1990 is amended—

13 (1) in subsection (b)(2)(A)(ii), by striking
14 “Act” and inserting “Act”);

15 (2) in subsection (b)(2)(D), by striking “serv-
16 ices” and inserting “counseling”;

17 (3) in subsection (b)(2)(I), by striking “assist-
18 ance” and inserting “referrals”;

19 (4) in subsection (c)(1), by striking “and that
20 such activities will continue to be maintained at such
21 level”;

22 (5) in subsection (d)(3), by striking “to the
23 rural areas” and inserting “eligible individuals resid-
24 ing in rural areas”;

25 (6) in subsection (e)—

1 (A) by striking “subsection (c) or (d)” and
2 inserting “this section”,

3 (B) by striking “and annually thereafter,
4 issue an annual report” and inserting “and an-
5 nually thereafter during the period of the grant,
6 issue a report”, and

7 (C) in paragraph (1), by striking “State-
8 wide;”,

9 (7) in subsection (f), by striking paragraph (2)
10 and by redesignating paragraphs (3) through (5) as
11 paragraphs (2) through (4), respectively; and

12 (8) by redesignating the second subsection (f)
13 (relating to authorization of appropriations for
14 grants) as subsection (g).

15 (j) TELEPHONE INFORMATION SYSTEM.—

16 (1) Section 1804 (42 U.S.C. 1395b-2) is
17 amended—

18 (A) by adding at the end of the heading
19 the following: “; MEDICARE AND MEDIGAP IN-
20 FORMATION”,

21 (B) by inserting “(a)” after “1804.”, and

22 (C) by adding at the end the following new
23 subsection:

1 “(b) The Secretary shall provide information via a
2 toll-free telephone number on the programs under this
3 title.”.

4 (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
5 amended by adding at the end the following new
6 paragraph:

7 “(3) The Secretary shall provide information via a
8 toll-free telephone number on medicare supplemental poli-
9 cies (including the relationship of State programs under
10 title XIX to such policies).”.

11 (3) Section 1889 (42 U.S.C. 1395zz) is re-
12 pealed.

13 (k) MAILING OF POLICIES.—Section 1882(d)(4) (42
14 U.S.C. 1395ss(d)(4)) is amended—

15 (1) in subparagraph (D), by striking “, if such
16 policy” and all that follows up to the period at the
17 end, and

18 (2) by adding at the end the following new sub-
19 paragraph:

20 “(E) Subparagraph (A) shall not apply in the case
21 of an issuer who mails or causes to be mailed a policy,
22 certificate, or other matter solely to comply with the re-
23 quirements of subsection (q).”.

1 (l) EFFECTIVE DATE.—The amendments made by
2 this section shall be effective as if included in the enact-
3 ment of OBRA–1990; except that—

4 (1) the amendments made by subsection (d)(1)
5 shall take effect on the date of the enactment of this
6 Act, but no penalty shall be imposed under section
7 1882(d)(3)(A) of the Social Security Act (for an ac-
8 tion occurring after the effective date of the amend-
9 ments made by section 4354 of OBRA–1990 and be-
10 fore the date of the enactment of this Act) with re-
11 spect to the sale or issuance of a policy which is not
12 unlawful under section 1882(d)(3)(A)(i)(II) of the
13 Social Security Act (as amended by this section);

14 (2) the amendments made by subsection
15 (d)(2)(A) and by subparagraphs (A), (B), and (E)
16 of subsection (e)(1) shall be effective on the date
17 specified in subsection (m)(4); and

18 (3) the amendment made by subsection (g)(2)
19 shall take effect on January 1, 1994, and shall apply
20 to individuals who attain 65 years of age or older on
21 or after the effective date of section 1882(s)(2) of
22 the Social Security Act (and, in the case of individ-
23 uals who attained 65 years of age after such effec-
24 tive date and before January 1, 1994, and who were
25 not covered under such section before January 1,

1 1994, the 6-month period specified in that section
2 shall begin January 1, 1994).

3 (m) TRANSITION PROVISIONS.—

4 (1) IN GENERAL.—If the Secretary of Health
5 and Human Services identifies a State as requiring
6 a change to its statutes or regulations to conform its
7 regulatory program to the changes made by this sec-
8 tion, the State regulatory program shall not be con-
9 sidered to be out of compliance with the require-
10 ments of section 1882 of the Social Security Act due
11 solely to failure to make such change until the date
12 specified in paragraph (4).

13 (2) NAIC STANDARDS.—If, within 6 months
14 after the date of the enactment of this Act, the Na-
15 tional Association of Insurance Commissioners (in
16 this subsection referred to as the “NAIC”) modifies
17 its 1991 NAIC Model Regulation (adopted in July
18 1991) to conform to the amendments made by this
19 section and to delete from section 15C the exception
20 which begins with “unless”, such modifications shall
21 be considered to be part of that Regulation for the
22 purposes of section 1882 of the Social Security Act.

23 (3) SECRETARY STANDARDS.—If the NAIC
24 does not make the modifications described in para-
25 graph (2) within the period specified in such para-

1 graph, the Secretary of Health and Human Services
2 shall make the modifications described in such para-
3 graph and such modifications shall be considered to
4 be part of that Regulation for the purposes of sec-
5 tion 1882 of the Social Security Act.

6 (4) DATE SPECIFIED.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), the date specified in this paragraph
9 for a State is the earlier of—

10 (i) the date the State changes its stat-
11 utes or regulations to conform its regu-
12 latory program to the changes made by
13 this section, or

14 (ii) 1 year after the date the NAIC or
15 the Secretary first makes the modifications
16 under paragraph (2) or (3), respectively.

17 (B) ADDITIONAL LEGISLATIVE ACTION RE-
18 QUIRED.—In the case of a State which the Sec-
19 retary identifies as—

20 (i) requiring State legislation (other
21 than legislation appropriating funds) to
22 conform its regulatory program to the
23 changes made in this section, but

24 (ii) having a legislature which is not
25 scheduled to meet in 1994 in a legislative

1 session in which such legislation may be
2 considered,
3 the date specified in this paragraph is the first
4 day of the first calendar quarter beginning after
5 the close of the first legislative session of the
6 State legislature that begins on or after Janu-
7 ary 1, 1994. For purposes of the previous sen-
8 tence, in the case of a State that has a 2-year
9 legislative session, each year of such session
10 shall be deemed to be a separate regular session
11 of the State legislature.

12 **Subtitle B—Medicaid Program and**
13 **Other Health Care Provisions**

14 **SEC. 5100. REFERENCES IN SUBTITLE; TABLE OF CON-**
15 **TENTS OF SUBTITLE.**

16 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
17 cept as otherwise specifically provided, whenever in this
18 subtitle an amendment is expressed in terms of an amend-
19 ment to or repeal of a section or other provision, the ref-
20 erence shall be considered to be made to that section or
21 other provision of the Social Security Act.

22 (b) REFERENCES TO OBRA.—In this subtitle, the
23 terms “OBRA-1986”, “OBRA-1987”, “OBRA-1989”,
24 and “OBRA-1990” refer to the Omnibus Budget Rec-
25 onciliation Act of 1986 (Public Law 99-509), the Omni-

1 bus Budget Reconciliation Act of 1987 (Public Law 100–
 2 203), the Omnibus Budget Reconciliation Act of 1989
 3 (Public Law 101–239), and the Omnibus Budget Rec-
 4 onciliation Act of 1990 (Public Law 101–508), respec-
 5 tively.

6 (c) TABLE OF CONTENTS OF SUBTITLE.—The table
 7 of contents of this subtitle is as follows:

Subtitle B—Medicaid Program and Other Health Care Provisions

Sec. 5100. References in subtitle; table of contents of subtitle.

CHAPTER 1—MEDICAID PROGRAM

SUBCHAPTER A—PROGRAM SAVINGS PROVISIONS

PART I—REPEAL OF MANDATE

Sec. 5101. Personal care services furnished outside the home as optional bene-
 fit.

PART II—OUTPATIENT PRESCRIPTION DRUGS

Sec. 5106. Permitting prescription drug formularies under State plans.

Sec. 5107. Elimination of special exemption from prior authorization for new
 drugs.

Sec. 5108. Technical corrections relating to section 4401 of OBRA–1990.

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE
 RECOVERY

Sec. 5111. Transfer of assets.

Sec. 5112. Medicaid estate recoveries.

Sec. 5113. Closing loophole permitting wealthy individuals to qualify for medic-
 aid.

PART IV—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD
 PARTY PAYMENTS

Sec. 5116. Liability of third parties to pay for care and services.

Sec. 5117. Health Coverage Clearinghouse.

“TITLE XXI—HEALTH COVERAGE CLEARINGHOUSE

“Sec. 2101. Establishment of clearinghouse.

“Sec. 2102. Provision of information.

“Sec. 2103. Requirement that employers furnish information.

“Sec. 2104. Data bank.”.

Sec. 5118. Medical child support.

PART V—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE
HOSPITALS

Sec. 5121. Assuring proper payments to disproportionate share hospitals.

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

Sec. 5131. Application of medicare rules limiting certain physician referrals.

Sec. 5132. Intermediate sanctions for kickback violations.

Sec. 5133. Requiring maintenance of effort for State medicaid fraud control units.

PART II—MANAGED CARE PROVISIONS

Sec. 5135. Medicaid managed care anti-fraud provisions.

Sec. 5136. Clarification of treatment of HMO enrollees in computing the medicaid inpatient utilization rate in qualifying hospitals as disproportionate share hospitals.

Sec. 5137. Extension of period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

Sec. 5138. Extension of medicaid waiver for Tennessee Primary Care Network.

Sec. 5139. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.

Sec. 5140. Extension of Minnesota Prepaid Medicaid Demonstration Project.

PART III—EMERGENCY SERVICES TO UNDOCUMENTED ALIENS

Sec. 5141. Increase in Federal financial participation for emergency medical assistance to undocumented aliens.

Sec. 5142. Limiting Federal medicaid matching payment to bona fide emergency services for undocumented aliens.

PART IV—MISCELLANEOUS PROVISIONS

Sec. 5144. Increase in limit on Federal medicaid matching payments to Puerto Rico and other territories.

Sec. 5145. Criteria for making determinations of denial of Federal medicaid matching payments to States.

Sec. 5146. Renewal of unfunded demonstration project for low-income pregnant women and children.

Sec. 5147. Optional medicaid coverage of TB-related services for certain TB-infected individuals.

Sec. 5148. Application of mammography certification requirements under the medicaid program.

Sec. 5149. Removal of sunset on extension of eligibility for working families.

Sec. 5150. Extension of moratorium on treatment of certain facilities as institutions for mental diseases.

Sec. 5150A. Treatment of certain clinics as federally-qualified health centers.

Sec. 5150B. Nursing home reform.

SUBCHAPTER C—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING
TO OBRA-1990

Sec. 5151. Effective date.

- Sec. 5152. Corrections relating to section 4402 (enrollment under group health plans).
- Sec. 5153. Corrections relating to section 4501 (low-income medicare beneficiaries).
- Sec. 5154. Corrections relating to section 4601 (child health).
- Sec. 5155. Corrections relating to section 4602 (outreach locations).
- Sec. 5156. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
- Sec. 5157. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
- Sec. 5158. Corrections relating to section 4704 (Federally-qualified health centers).
- Sec. 5159. Corrections relating to section 4708 (substitute physicians).
- Sec. 5160. Corrections relating to section 4711 (home and community care for frail elderly).
- Sec. 5161. Corrections relating to section 4712 (community supported living arrangements services).
- Sec. 5162. Correction relating to section 4713 (COBRA continuation coverage).
- Sec. 5163. Correction relating to section 4716 (medicaid transition for family assistance).
- Sec. 5164. Corrections relating to section 4723 (medicaid spenddown option).
- Sec. 5165. Corrections relating to section 4724 (optional State disability determinations).
- Sec. 5166. Correction relating to section 4732 (special rules for health maintenance organizations).
- Sec. 5167. Corrections relating to section 4741 (home and community-based waivers).
- Sec. 5168. Corrections relating to section 4744 (frail elderly waivers).
- Sec. 5169. Corrections relating to section 4747 (coverage of HIV-positive individuals).
- Sec. 5170. Correction relating to section 4751 (advance directives).
- Sec. 5171. Corrections relating to section 4752 (physicians' services).
- Sec. 5172. Corrections relating to section 4801 (nursing home reform).
- Sec. 5173. Other technical corrections.
- Sec. 5174. Corrections to designations of new provisions.

CHAPTER 2—UNIVERSAL ACCESS TO CHILDHOOD IMMUNIZATIONS

- Sec. 5181. Establishment of entitlement and monitoring programs with respect to childhood immunizations.

“Subtitle 3—Entitlement and Monitoring Programs With Respect to Childhood Immunizations

“PART A—ENTITLEMENT PROGRAM

- “Sec. 2151. Delivery to States of sufficient quantities of pediatric vaccines.
- “Sec. 2152. Entitlements.
- “Sec. 2153. Voluntary participation of health care providers.
- “Sec. 2154. Intrastate distribution of pediatric vaccines.
- “Sec. 2155. General provisions.
- “Sec. 2156. State option regarding immunization of additional categories of children.
- “Sec. 2157. State application for vaccines.
- “Sec. 2158. Contracts with manufacturers of pediatric vaccines.
- “Sec. 2159. Certain administrative variations.

- “Sec. 2160. List of pediatric vaccines; schedule for administration.
- “Sec. 2161. Childhood Immunization Trust Fund.
- “Sec. 2162. Definitions.
- “Sec. 2163. Termination of program.

“PART B—NATIONAL SYSTEM FOR MONITORING IMMUNIZATION STATUS OF
CHILDREN

- “Sec. 2171. Formula grants for State registries with respect to monitoring.
- “Sec. 2172. Registry data.
- “Sec. 2173. General provisions.
- “Sec. 2174. Application for grant.
- “Sec. 2175. Determination of amount of allotment.
- “Sec. 2176. Definitions.
- “Sec. 2177. Authorization of appropriations.

“PART C—FUNDING FOR OTHER PURPOSES REGARDING CHILDHOOD
IMMUNIZATIONS

- “Sec. 2181. Grants regarding Year 2000 health objectives.

- Sec. 5182. National Vaccine Injury Compensation Program amendments.
- Sec. 5183. Medicaid immunization provisions.
- Sec. 5184. Availability of medicaid payments for childhood vaccine replacement programs.
- Sec. 5185. Healthy start for infants.
- Sec. 5186. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.
- Sec. 5187. Miscellaneous technical corrections to Public Health Service Act provisions.

1 **CHAPTER 1—MEDICAID PROGRAM**

2 **Subchapter A—Program Savings Provisions**

3 **PART I—REPEAL OF MANDATE**

4 **SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUT-**

5 **SIDE THE HOME AS OPTIONAL BENEFIT.**

6 (a) IN GENERAL.—Section 1905(a) (42 U.S.C.
7 1396d(a)), as amended by section 5174(c)(1), is further
8 amended—

9 (1) in paragraph (7), by striking “including
10 personal care services” and all that follows through
11 “nursing facility”;

1 (2) in paragraph (23), by striking “and” at the
2 end;

3 (3) by redesignating paragraph (24) as para-
4 graph (25); and

5 (4) by inserting after paragraph (23) the fol-
6 lowing new paragraph:

7 “(24) personal care services furnished to an in-
8 dividual who is not an inpatient or resident of a
9 nursing facility that are (A) authorized by a physi-
10 cian for the individual in accordance with a plan of
11 treatment, (B) provided by an individual who is
12 qualified to provide such services and who is not a
13 member of the individual’s family, (C) supervised by
14 a registered nurse, and (D) furnished in a home or
15 other location; and”.

16 (b) CONFORMING AMENDMENTS.—(1) Section
17 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as
18 amended by section 5174(c)(2)(A), is amended by striking
19 “through (23)” and inserting “through (24)”.

20 (2) Section 1902(j) (42 U.S.C. 1396a(j)), as amend-
21 ed by section 5174(c)(2)(B), is amended by striking
22 “through (24)” and inserting “through (25)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 subsections (a) and (b) shall take effect as if included in
25 the enactment of section 4721(a) of OBRA–90.

1 **PART II—OUTPATIENT PRESCRIPTION DRUGS**

2 **SEC. 5106. PERMITTING PRESCRIPTION DRUG**
3 **FORMULARIES UNDER STATE PLANS.**

4 (a) **ELIMINATION OF PROHIBITION AGAINST USE OF**
5 **FORMULARIES.**—Paragraph (54) of section 1902(a)(54)
6 (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

7 “(54) in the case of a State plan that provides
8 medical assistance for covered outpatient drugs (as
9 defined in section 1927(k)), comply with the applica-
10 ble requirements of section 1927;”.

11 (b) **STANDARDS FOR FORMULARIES.**—Section
12 1927(d) (42 U.S.C. 1396r–8(d)), as amended by sections
13 5107(a) and 5108(b)(4)(A)(iii), is amended—

14 (1) by adding at the end of paragraph (1) the
15 following new subparagraph:

16 “(C) In the case of a State that establishes a
17 formulary in accordance with paragraph (5), the
18 State may exclude coverage of a covered outpatient
19 drug that is not included in the formulary.”; and

20 (2) by inserting after paragraph (4) the follow-
21 ing new paragraph:

22 “(5) **REQUIREMENTS FOR FORMULARIES.**—A
23 State may establish a formulary only if the following
24 requirements are met:

25 “(A) The formulary is established by a
26 committee consisting of physicians, phar-

1 macists, and other appropriate individuals ap-
2 pointed by the Governor of the State (or, at the
3 option of the State, the State's drug use review
4 board established under subsection (g)(3)).

5 “(B) Except as provided in subparagraph
6 (C), the formulary includes the covered out-
7 patient drugs of any manufacturer which has
8 entered into and complies with an agreement
9 under subsection (a).

10 “(C) The committee may exclude a covered
11 outpatient drug with respect to the treatment of
12 a specific disease or condition for an identified
13 population (if any) only if the committee finds,
14 based on the drug's labeling (or, in the case of
15 a drug whose prescribed use is not approved
16 under the Federal Food, Drug, and Cosmetic
17 Act but is a medically accepted indication,
18 based on information from the appropriate com-
19 pendia described in subsection (k)(6)), that the
20 excluded drug does not have a significant, clini-
21 cally meaningful therapeutic advantage in terms
22 of safety, effectiveness, or clinical outcome of
23 such treatment for such population over other
24 drugs included in the formulary.

1 “(D) With respect to a decision to exclude
2 a covered outpatient drug from the formulary
3 or a prescribed use of such a drug, the commit-
4 tee issues a written explanation of its decision
5 that is available to the public, unless the deci-
6 sion was made at a meeting of the committee
7 which was open to the public.

8 “(E) The manufacturer of the drug, and
9 any person affected by the decision, may obtain
10 a reversal of the committee’s decision to exclude
11 a covered outpatient drug from the formulary
12 under subparagraph (C) on the ground that the
13 decision was arbitrary and capricious, in ac-
14 cordance with an appeals process that is estab-
15 lished by the State and that provides an oppor-
16 tunity for judicial review of such decision.

17 “(F) The State plan permits coverage of a
18 drug excluded from the formulary pursuant to
19 a prior authorization program that is consistent
20 with paragraph (4).

21 “(G) The formulary meets such other re-
22 quirements as the Secretary may impose.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to calendar quarters beginning on
25 or after October 1, 1993, without regard to whether or

1 not regulations to carry out such amendments have been
2 promulgated by such date.

3 **SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM**
4 **PRIOR AUTHORIZATION FOR NEW DRUGS.**

5 (a) IN GENERAL.—Section 1927(d) (42 U.S.C.
6 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is
7 amended by striking paragraph (5).

8 (b) CONFORMING AMENDMENT.—Section 1927(d)(3)
9 (42 U.S.C. 1396r–8(d)(3)) is amended by striking “(ex-
10 cept with respect” and all that follows through “of this
11 paragraph)”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to calendar quarters beginning on
14 or after October 1, 1993, without regard to whether or
15 not regulations to carry out such amendments have been
16 promulgated by such date.

17 **SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SEC-**
18 **TION 4401 OF OBRA-1990.**

19 (a) SECTION 1903, SSA.—Paragraph (10) of section
20 1903(i), as inserted by section 4401(a)(1)(B) of OBRA-
21 1990, is amended to read as follows:

22 “(10) with respect to covered outpatient drugs
23 unless there is a rebate agreement in effect under
24 section 1927 with respect to such drugs or unless
25 section 1927(a)(3) applies;”.

1 (b) SECTION 1927, SSA.—(1) Section 1927(a) (42
2 U.S.C. 1396r-8(a)) is amended—

3 (A) in paragraph (1)—

4 (i) by amending the second sentence to
5 read as follows: “Any such agreement entered
6 into prior to April 1, 1991, shall be deemed to
7 have been entered into on January 1, 1991, and
8 the amount of the rebate under such agreement
9 shall be calculated as if the agreement had been
10 entered into on January 1, 1991.”, and

11 (ii) in the third sentence, by striking
12 “March” and inserting “April”;

13 (B) in paragraph (2)—

14 (i) by striking “first”, and

15 (ii) by striking the period at the end and
16 inserting the following: “, except that such
17 paragraph (and section 1903(i)(10)(A)) shall
18 not apply to the dispensing of such a drug be-
19 fore April 1, 1991, if the Secretary determines
20 that there were extenuating circumstances with
21 respect to the first calendar quarter of 1991.”;

22 (C) in paragraph (3), by striking “single
23 source” and all that follows and inserting the follow-
24 ing: “covered outpatient drugs if—

1 “(A) based on information provided by a
2 beneficiary’s physician, the State has made a
3 determination that the availability of the drug
4 is essential to the health of the beneficiary
5 under the State plan, and the Secretary has re-
6 viewed and approved such determination; and

7 “(B) the drug has been given a rating of
8 1–A by the Food and Drug Administration.”;

9 (D) in paragraph (4)—

10 (i) by striking “in compliance with”
11 and inserting “in effect under”, and

12 (ii) by striking “coverage of the man-
13 ufacturer’s drugs” and inserting “ingredi-
14 ent costs of the manufacturer’s covered
15 outpatient drugs covered”; and

16 (E) by adding at the end the following new
17 paragraph:

18 “(5) APPLICATION IN CERTAIN STATES AND
19 TERRITORIES.—

20 “(A) APPLICATION IN STATES OPERATING
21 UNDER DEMONSTRATION PROJECTS.—In the
22 case of any State which is providing medical as-
23 sistance to its residents under a waiver granted
24 under section 1115, the Secretary shall require
25 the State to meet the requirements of section

1 1902(a)(54) and of this section in the same
2 manner as the State would be required to meet
3 such requirements if the State had in effect a
4 plan approved under this title.

5 “(B) NO APPLICATION IN COMMON-
6 WEALTHS AND TERRITORIES.—This section,
7 and sections 1902(a)(54) and 1903(i)(10), shall
8 only apply to a State that is one of the 50
9 States or the District of Columbia.”.

10 (2) Section 1927(b) (42 U.S.C. 1396r-8(b)) is
11 amended—

12 (A) in paragraph (1)(A)—

13 (i) by striking “(or periodically in accord-
14 ance with a schedule specified by the Sec-
15 retary)” and inserting “(or other period speci-
16 fied by the Secretary)”, and

17 (ii) by inserting “after December 31, 1990,
18 for which payment was made” after “dis-
19 pensed”;

20 (B) in paragraph (2)(A)—

21 (i) by striking “calendar quarter” and “the
22 quarter” and inserting “rebate period” and
23 “the period”, respectively,

1 (ii) by striking “dosage units” and insert-
2 ing “units of each dosage form and strength”,
3 and

4 (iii) by inserting “after December 31,
5 1990, for which payment was made” after
6 “dispensed”;

7 (C) in paragraph (3)(A)—

8 (i) in clause (i), by striking “quarter” each
9 place it appears and inserting “calendar quarter
10 or other rebate period under the agreement”,

11 (ii) in clause (i), by striking the open pa-
12 renthesis before “for” and the close parenthesis
13 after “drugs”,

14 (iii) in clause (i), by striking “subsection
15 (c)(2)(B)) for covered outpatient drugs” and in-
16 serting “subsection (c)(1)(C) for each covered
17 outpatient drug”, and

18 (iv) in clause (ii), by inserting a comma
19 after “this section” and after “1990”;

20 (D) in paragraph (3)(B)—

21 (i) by striking “\$100,000” and inserting
22 “\$10,000”,

23 (ii) by striking “if the wholesaler” and in-
24 serting “for each instance in which the whole-
25 saler”,

1 (iii) by inserting “in response to such a re-
2 quest” after “false information”, and

3 (iv) by striking “(with respect to amounts
4 of penalties or additional assessments)”;

5 (E) in paragraph (3)(C)—

6 (i) in clause (i), by striking “the penalty”
7 and inserting “the rebate next required to be
8 paid”,

9 (ii) in clause (i), by striking “and such
10 amount shall be paid to the Treasury, and, if”
11 and inserting “. If”,

12 (iii) in clause (ii), by inserting “under sub-
13 paragraph (A)” after “provides false informa-
14 tion”, and

15 (iv) in clause (ii), by striking “Such civil
16 money penalties are” and inserting “Any such
17 civil money penalty shall be”;

18 (F) in paragraph (3)(D), by striking “whole-
19 saler,” the first place it appears and inserting
20 “wholesaler or the”; and

21 (G) in paragraph (4)(B)(iii), by adding at the
22 end the following: “In the case of such a termi-
23 nation, a State may terminate coverage of the drugs
24 affected by such termination as of the effective date

1 of such termination without providing any advance
2 notice otherwise required by regulation.”.

3 (3) Section 1927(c) (42 U.S.C. 1396r-8(c)) is
4 amended—

5 (A) in paragraph (1) in the matter preceding
6 subparagraph (A)—

7 (i) by striking the first sentence,

8 (ii) in the second sentence, by striking
9 “Except as otherwise provided” and all that fol-
10 lows through “the Secretary)” and inserting the
11 following: “For purposes of this section, the
12 amount of the rebate under this subsection for
13 a rebate period”, and

14 (iii) by inserting “(except as provided in
15 subsection (b)(3)(C) and paragraph (2))” after
16 “drugs shall”;

17 (B) in paragraph (1)(A), by striking “the quar-
18 ter (or other period)” and inserting “the rebate pe-
19 riod”;

20 (C) in subparagraph (C)—

21 (i) by striking “For purposes of this para-
22 graph” and inserting “BEST PRICE DEFINED.—
23 For purposes of this section”,

24 (ii) by inserting “provider,” after “re-
25 tailer,”, and

1 (iii) by striking the semicolon at the end
2 and inserting a period; and

3 (D) by striking subparagraph (D) and inserting
4 the following:

5 “(D) USE OF ESTIMATED BEST PRICES
6 DURING INITIAL YEAR OF AVAILABILITY OF
7 DRUG.—If the Secretary determines that a
8 manufacturer cannot determine the best price
9 for rebate periods during the first year in which
10 an agreement is in effect until after the end of
11 the year, as part of the agreement the Sec-
12 retary may require the manufacturer to esti-
13 mate the best price for rebate periods during
14 the year and provide an adjustment to the re-
15 bate paid to the State to take into account the
16 difference (if any) between the best price and
17 the estimated best price.”.

18 (4)(A) Section 1927(d) (42 U.S.C. 1396r-8(d)) is
19 amended—

20 (i) in paragraph (2)—

21 (I) in subparagraph (A), by inserting “or
22 loss” after “gain”,

23 (II) by striking subparagraph (I), and

24 (III) by redesignating subparagraphs (J)
25 and (K) as subparagraphs (I) and (J);

1 (ii) in paragraph (3)—

2 (I) by striking “described in paragraph
3 (2)”, and

4 (II) by inserting “described in paragraph
5 (2)” after “classes of drugs,”;

6 (iii) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);

9 (iv) in paragraph (6), as so redesignated, by striking “provided” and inserting “if”; and

11 (v) by striking the second sentence of paragraph (6), as so redesignated, and paragraph (8) and inserting the following:

14 “(7) CONSTRUCTION WITH RESPECT TO FRAUD
15 AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply
16 sanctions under this Act against any person for
17 fraud or abuse.”.

19 (B) Section 1927(d)(4), as redesignated by subparagraph (A)(iii), shall first apply to drugs dispensed on or
20 after July 1, 1991.

22 (5)(A) Section 1927(f) (42 U.S.C. 1396r-8(f)) is
23 amended to read as follows:

24 “(f) NO REDUCTIONS IN PHARMACY REIMBURSE-
25 MENT LIMITS.—

1 “(1) IN GENERAL.—During the period begin-
2 ning on November 5, 1990, and ending on December
3 31, 1994—

4 “(A) a State may not reduce the amount
5 paid by the State under this title with respect
6 to the ingredient cost of a covered outpatient
7 drug or the dispensing fee for such a drug
8 below the amount in effect as of November 5,
9 1990, and

10 “(B) the Secretary may not change the
11 regulations in effect on November 5, 1990, gov-
12 erning the amounts described in subparagraph
13 (A) which are eligible for Federal financial par-
14 ticipation, to reduce the reimbursement limits
15 described in such regulations.

16 “(2) CONSTRUCTION.—If the Secretary notified
17 a State before November 5, 1990, that its payment
18 amounts under this title with respect to the ingredi-
19 ent cost of a covered outpatient drug or the dispens-
20 ing fee for such a drug were in excess of those per-
21 mitted under regulations in effect on such date,
22 paragraph (1)(B) shall not be construed as prevent-
23 ing a State from reducing payment amounts or dis-
24 pensing fee in order to comply with such regula-
25 tions.”.

1 (B) Not later than April 1, 1994, the Secretary of
2 Health and Human Services shall establish an upper limit
3 on the amount of payment which is eligible for Federal
4 financial participation under title XIX of the Social Secu-
5 rity Act for each multiple source drug (as defined in sec-
6 tion 1927(k)(7)(A)(i) of such Act) for which the Food and
7 Drug Administration has rated at least 3 formulations of
8 such drug as therapeutically and pharmaceutically equiva-
9 lent, regardless of whether all the formulations of such
10 drug are rated as so equivalent. In establishing such a
11 limit for a drug, the Secretary shall take into account only
12 those formulations of the drug which the Food and Drug
13 Administration has rated as therapeutically and pharma-
14 ceutically equivalent.

15 (6) Section 1927(g) (42 U.S.C. 1396r-8(g)) is
16 amended—

17 (A) by amending paragraph (1) to read as fol-
18 lows:

19 “(1) REQUIREMENT FOR DRUG USE REVIEW
20 PROGRAM.—Each State shall provide, by not later
21 than January 1, 1993, for a drug use review pro-
22 gram for covered outpatient drugs (other than drugs
23 dispensed to residents of nursing facilities) that—

24 “(A) meets the requirements of paragraph
25 (2), and

1 “(B) is intended to assure that prescrip-
2 tions for such drugs are appropriate, medically
3 necessary, and not likely to lead to adverse
4 medical results.”;

5 (B) in paragraph (2)—

6 (i) by amending the matter before subpara-
7 graph (A) to read as follows:

8 “(2) REQUIREMENTS.—”,

9 (ii) by amending subparagraph (A) to read
10 as follows:

11 “(A) PROSPECTIVE DRUG USE REVIEW.—
12 Each drug use review program shall provide for
13 a review of drug therapy before each prescrip-
14 tion is filled or delivered to an individual receiv-
15 ing benefits under this title (including counsel-
16 ing by pharmacists) consistent with standards
17 established by the Secretary. Nothing in this
18 paragraph shall be construed as requiring a
19 pharmacist to provide consultation when an in-
20 dividual receiving benefits under this title or
21 caregiver of such individual refuses such con-
22 sultation.”,

23 (iii) in subparagraph (C)—

1 (I) by striking “APPLICATION OF
2 STANDARDS.—” and inserting “STAND-
3 ARDS.—(i)”,

4 (II) by striking “and literature re-
5 ferred to in subsection (1)(B)” and insert-
6 ing “described in clause (ii)”,

7 (III) by striking “including but not
8 limited to” and inserting “. Such assess-
9 ment shall include”,

10 (IV) by striking “abuse/misuse and,
11 as necessary, introduce remedial strate-
12 gies,” and inserting “abuse or misuse and
13 introduce remedial strategies”, and

14 (V) by adding at the end the following
15 new clause:

16 “(ii) The compendia described in this
17 clause are the American Hospital Formulary
18 Service Drug Information, the United States
19 Pharmacopeia-Drug Information, and the
20 American Medical Association Drug Evalua-
21 tions.”, and

22 (iv) by amending subparagraph (D) to
23 read as follows:

24 “(D) EDUCATIONAL PROGRAM.—The pro-
25 gram shall educate (directly or by contract)

1 pharmacists, physicians, and other individuals
2 prescribing or dispensing covered outpatient
3 drugs under the State plan on common drug
4 therapy problems in order to improve prescrib-
5 ing or dispensing practices.”;

6 (C) in paragraph (3)—

7 (i) in subparagraph (A), by striking
8 “(hereinafter” and all that follows and inserting
9 “(in this paragraph referred to as the ‘DUR
10 Board’).”;

11 (ii) in subparagraph (B), by striking “51
12 percent” and all that follows and inserting “50
13 percent licensed and actively practicing physi-
14 cians and at least 1/3 but not more than 50
15 percent licensed and actively practicing phar-
16 macists.”;

17 (iii) by amending subparagraph (C) to
18 read as follows:

19 “(C) RESPONSIBILITIES.—The responsibil-
20 ities of the DUR Board shall include the follow-
21 ing:

22 “(i) Carrying out retrospective drug
23 use review pursuant to paragraph (2)(B).

1 “(ii) Establishing and applying stand-
2 ards for drug use review described in para-
3 graph (2)(C).

4 “(iii) Implementing educational pro-
5 grams described in paragraph (2)(D).

6 “(iv) Conducting ongoing evaluations
7 of the effectiveness of its programs and ac-
8 tivities in improving the quality and safety
9 of drug therapy for individuals receiving
10 benefits under the State plan.”; and

11 (D) by amending subparagraph (D) to read as
12 follows:

13 “(4) ANNUAL REPORT.—Each State shall sub-
14 mit a report each year to the Secretary on the na-
15 ture and scope of the drug use review program
16 under this subsection. Such report shall include an
17 estimate of cost savings resulting from operation of
18 such program.”.

19 (7) Section 1927(h) (42 U.S.C. 1396r-8(h)) is
20 amended to read as follows:

21 “(h) ENCOURAGING ELECTRONIC CLAIMS MANAGE-
22 MENT.—The Secretary shall encourage each single State
23 agency under this title to establish, as its principal means
24 of processing claims for covered outpatient drugs, a point-
25 of-sale electronic claims management system for the pur-

1 pose of verifying eligibility, transmitting data on claims,
2 and assisting pharmacists and other authorized persons
3 in applying for and receiving payment under the State
4 plan.”.

5 (8) Section 1927(i) (42 U.S.C. 1396r-8(i)) is amend-
6 ed to read as follows:

7 “(i) ANNUAL REPORT ON REBATE PROGRAM.—Not
8 later than May 1 of each year, the Secretary shall submit
9 to the Committee on Finance of the Senate, the Commit-
10 tee on Energy and Commerce of the House of Representa-
11 tives, and the Committee on Aging of the Senate a report
12 on the operation of the rebate agreements required for
13 covered outpatient drugs under this section in the preced-
14 ing fiscal year, and shall include in the report such infor-
15 mation in addition to the information required to be re-
16 ported under section 601(d) of the Veterans Health Care
17 Act of 1992 as the Secretary considers appropriate.”.

18 (9) Section 1927(j) (42 U.S.C. 1396r-8(j)) is amend-
19 ed to read as follows:

20 “(j) EXEMPTION FROM CERTAIN REQUIREMENTS
21 FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS
22 AND HOSPITALS.—

23 “(1) CERTAIN HEALTH MAINTENANCE ORGANI-
24 ZATIONS AND PHARMACIES.—The requirements of

1 subsections (g) and (h) shall not apply with respect
2 to covered outpatient drugs dispensed by—

3 “(A) an entity which receives payment
4 under a prepaid capitation basis or under any
5 other risk basis in accordance with section
6 1903(m)(2)(A) for services provided under the
7 State plan; or

8 “(B) a pharmacy that is owned or operated
9 by a qualified health maintenance organization
10 (as defined in section 1310(d) of the Public
11 Health Service Act) that operates its own pro-
12 spective drug use review program.

13 “(2) HOSPITALS WITH INDEPENDENT FOR-
14 MULARY SYSTEMS.—

15 “(A) IN GENERAL.—The requirements of
16 subsections (g) and (h) shall not apply with re-
17 spect to covered outpatient drugs dispensed by
18 a hospital providing medical assistance under
19 the State plan that dispenses such drugs under
20 a drug formulary system.

21 “(B) APPLICATION OF STATE FOR-
22 MULARY.—Nothing in subparagraph (A) shall
23 be construed to permit payment to be made
24 under the State plan for a covered outpatient
25 drug that is included in a drug formulary but

1 that is not included in the State formulary
2 under subsection (d)(5).

3 “(3) CONSTRUCTION IN DETERMINING BEST
4 PRICE.—Nothing in this subsection shall be con-
5 strued to exclude any covered outpatient drugs sub-
6 ject to the provisions of this subsection from the de-
7 termination of the best price (as defined in sub-
8 section (c)(1)(C)) for such drugs.”.

9 (10) Section 1927(k) (42 U.S.C. 1396r-8(k)) is
10 amended—

11 (A) in paragraph (1), by striking “calendar
12 quarter” and inserting “rebate period”;

13 (B) in paragraph (2)—

14 (i) in the matter before clause (i) of sub-
15 paragraph (A), by striking “paragraph (5)” and
16 inserting “subparagraph (D)”,

17 (ii) by striking “, and” at the end of sub-
18 paragraph (A),

19 (iii) by striking the period at the end of
20 subparagraph (C) and inserting “; and”, and

21 (iv) by adding at the end the following new
22 subparagraph:

23 “(D) a drug which may be sold without a
24 prescription (commonly referred to as an ‘over-
25 the-counter drug’), if the drug is prescribed by

1 a physician (or other person authorized to pre-
2 scribe under State law).”;

3 (C) in paragraph (3)—

4 (i) in subparagraph (E), by striking “****
5 emergency room visits”,

6 (ii) in subparagraph (F), by striking
7 “sevices” and inserting “services”, and

8 (iii) in subparagraph (H), by inserting
9 “services” after “dialysis”;

10 (D) by striking paragraph (4);

11 (E) by amending paragraph (5) to read as fol-
12 lows:

13 “(5) MANUFACTURER.—The term ‘manufac-
14 turer’ means, with respect to a covered outpatient
15 drug,—

16 “(A) the entity (if any) that both manufac-
17 tures and distributes the drug, or

18 “(B) if no such entity exists, the entity
19 that distributes the drug.

20 Such term does not include a wholesale distributor
21 of the drug that does not hold a National Drug Code
22 number for the drug or a retail pharmacy licensed
23 under State law.”;

24 (F) in paragraph (6), by striking “, which ap-
25 pears” and all that follows and inserting “which is

1 accepted by any of the compendia described in sub-
2 section (g)(2)(C)(ii).”;

3 (G) in paragraph (7)—

4 (i) in subparagraph (A)(i), by striking
5 “calendar quarter” and inserting “rebate pe-
6 riod”,

7 (ii) in subparagraph (A)(i), by striking
8 “paragraph (5)” and inserting “paragraph
9 (2)(D)”,

10 (iii) in subparagraph (A)(ii), by inserting
11 “or product licensing application” after “appli-
12 cation”,

13 (iv) in subparagraph (C)(i), by striking
14 “pharmaceutically” and inserting “pharma-
15 ceutically”, and

16 (v) in subparagraph (C)(iii), by striking “,
17 provided that” and inserting “and”; and

18 (H) by redesignating paragraph (8) as para-
19 graph (9) and by inserting after paragraph (7) the
20 following new paragraph:

21 “(8) REBATE PERIOD.—The term ‘rebate pe-
22 riod’ means, with respect to an agreement under
23 subsection (a), a calendar quarter or other period
24 specified with respect to the agreement under sub-
25 section (b)(1)(A) for the payment of rebates.”.

1 (d) FUNDING.—Section 4401(b)(2) of OBRA–1990
2 is amended by striking “75 percent,” and all that follows
3 and inserting “75 percent.”.

4 (e) DEMONSTRATION PROJECTS.—Section
5 4401(c)(1) of OBRA–1990 is amended—

6 (A) in subparagraph (A), by striking “10” and
7 inserting “5”; and

8 (B) in subparagraph (C), by striking “regi-
9 ment” and inserting “regimen”.

10 (f) STUDIES.—Section 4401(d) of OBRA–1990 is
11 amended—

12 (1) in paragraph (1)(A), by striking “other in-
13 stitutional facilities, and managed care plans” and
14 inserting “nursing facilities, intermediate care facili-
15 ties for the mentally retarded, and health mainte-
16 nance organizations”;

17 (2) in paragraph (1)(B), by striking “under
18 this subsection” and inserting “under this para-
19 graph”;

20 (3) in paragraph (1)(B)(i), by striking “under
21 this section” and inserting “under section 1927 of
22 the Social Security Act”;

23 (4) in paragraph (1)(B)(ii)—

1 (A) by striking “drug use review” the sec-
2 ond place it appears and inserting “the type of
3 drug use review that is”, and

4 (B) by striking “under this section” and
5 inserting “under such section”;

6 (5) in paragraph (1)(B)(iii), by striking “under
7 this title” and inserting “under title XIX of the So-
8 cial Security Act”;

9 (6) in paragraph (1)(C)—

10 (A) by striking “May 1, 1991” and insert-
11 ing “May 1, 1992”, and

12 (B) by striking “hereafter”;

13 (7) in paragraph (2), by striking “the Commit-
14 tees on Aging of the Senate and House of Rep-
15 resentatives an annual report” and inserting “the
16 Committee on Aging of the Senate a report”;

17 (8) in paragraph (3)—

18 (A) in subparagraph (A), by striking “,
19 acting in consultation with the Comptroller
20 General,” and

21 (B) in subparagraph (B)—

22 (i) by striking “December 31, 1991,
23 the Secretary and the Comptroller Gen-
24 eral” and inserting “June 1, 1993, the
25 Secretary”, and

1 (ii) by striking “the Committees on
2 Aging of the Senate and the House of Rep-
3 resentatives” and inserting “the Commit-
4 tee on Aging of the Senate”;

5 (9) in paragraph (4)(A), by striking “each” and
6 by striking the semicolon and inserting a comma;
7 and

8 (10) by striking paragraphs (5) and (6).

9 **PART III—RESTRICTIONS ON DIVESTITURE OF**
10 **ASSETS AND ESTATE RECOVERY**

11 **SEC. 5111. TRANSFER OF ASSETS.**

12 (a) PERIOD OF INELIGIBILITY.—

13 (1) EXTENDING LOOK-BACK PERIOD TO 36
14 MONTHS.—Section 1917(c)(1) (42 U.S.C.
15 1396p(c)(1)) is amended by striking “30-month pe-
16 riod” and inserting “36-month period”.

17 (2) ELIMINATING 30-MONTH LIMIT ON PERIOD
18 OF INELIGIBILITY.—The second sentence of such
19 section is amended by striking “equal to” and all
20 that follows and inserting the following: “equal to—

21 “(A) the total uncompensated value of the re-
22 sources so transferred; divided by

23 “(B) the average monthly cost, to a private pa-
24 tient at the time of the application, of nursing facil-
25 ity services in the State or, at State option, in the

1 community in which the individual is institutional-
2 ized.”.

3 (3) CUMULATIVE PERIODS OF INELIGIBILITY IN
4 THE CASE OF MULTIPLE TRANSFERS.—Such sen-
5 tence is further amended by inserting “(or, in the
6 case of a transfer which occurs during a period of
7 ineligibility attributable to a previous transfer, the
8 first month after the end of all periods of ineligibil-
9 ity attributable to any previous transfer)” after
10 “shall begin with the month in which such resources
11 were transferred”.

12 (b) CRITERIA FOR UNDUE HARDSHIP EXCEPTION.—
13 Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is
14 amended to read as follows:

15 “(D) the State agency determines, under proce-
16 dures established by the State (in accordance with
17 standards specified by the Secretary) that the denial
18 of eligibility would work an undue hardship (in ac-
19 cordance with criteria established by the Sec-
20 retary).”.

21 (c) TREATMENT OF JOINTLY HELD ASSETS.—Sec-
22 tion 1917(c) (42 U.S.C. 1936p(c)) is further amended by
23 adding at the end the following new paragraph:

24 “(6) For purposes of this subsection, in the case of
25 an asset held by an individual in common with another

1 person or persons in a joint tenancy or a similar arrange-
2 ment, the asset (or the affected portion thereof) shall be
3 considered to be transferred by such individual when any
4 action is taken, either by such individual or by any other
5 person, that reduces or eliminates such individual's owner-
6 ship or control of such asset.”.

7 (d) MEDICAID QUALIFYING TRUSTS.—Section
8 1902(k) (42 U.S.C. 1396a(k)) is amended to read as fol-
9 lows:

10 “(k) TREATMENT OF TRUST AMOUNTS.—

11 “(1) IN GENERAL.—For purposes of determin-
12 ing an individual's eligibility for or amount of bene-
13 fits under a State plan under this title, subject to
14 paragraph (4), the following rules shall apply to a
15 trust (which term includes, for purposes of this sub-
16 section, any similar legal instrument or device, such
17 as an annuity) established by such individual:

18 “(A) REVOCABLE TRUSTS.—In the case of
19 a revocable trust—

20 “(i) the corpus of the trust shall be
21 considered resources available to the indi-
22 vidual,

23 “(ii) payments from the trust to or
24 for the benefit of the individual shall be
25 considered income of the individual, and

1 “(iii) any other payments from the
2 trust shall be considered a transfer of as-
3 sets by the individual subject to section
4 1917(c).

5 “(B) IRREVOCABLE TRUSTS WHICH MAY
6 BENEFIT GRANTOR.—In the case of an irrev-
7 ocable trust, if there are any circumstances
8 under which payment from the trust could be
9 made to or for the benefit of the individual—

10 “(i) the corpus of the trust (or that
11 portion of the corpus from which, or from
12 the increase whereof, payment to the indi-
13 vidual could be made) shall be considered
14 resources available to the individual, and
15 payments from that portion of the corpus
16 (or increase)—

17 “(I) to or for the benefit of the
18 individual, shall be considered income
19 of the individual, and

20 “(II) for any other purpose, shall
21 be considered a transfer of assets by
22 the individual subject to the provisions
23 of section 1917(c); and

24 “(ii) any portion of the trust from
25 which (or from the income whereof) no

1 payment could under any circumstances be
2 made to the individual shall be considered,
3 as of the date of establishment of the trust
4 (or, if later, the date on which payment to
5 the individual was foreclosed), a transfer of
6 assets by the individual subject to section
7 1917(c), and payments from such portion
8 of the trust after such date shall be dis-
9 regarded.

10 “(C) IRREVOCABLE TRUSTS WHICH CAN-
11 NOT BENEFIT GRANTOR.—In the case of an ir-
12 revocable trust, if no payment may be made
13 from the trust under any circumstances to or
14 for the benefit of the individual—

15 “(i) the corpus of the trust shall be
16 considered, as of the date of establishment
17 of the trust (or, if later, the date on which
18 payment to the individual was foreclosed),
19 a transfer of assets subject to section
20 1917(c), and

21 “(ii) payments from the trust after
22 the date specified in clause (i) shall be dis-
23 regarded.

24 “(2) DETERMINATION OF GRANTOR.—

1 “(A) TREATMENT OF ACTS BY INDIVIDUAL
2 AND OTHERS.—For purposes of this subsection,
3 an individual shall be considered to have estab-
4 lished a trust if—

5 “(i) the individual (or the individual’s
6 spouse), or a person (including a court or
7 administrative body) with legal authority
8 to act in place of or on behalf of such indi-
9 vidual (or spouse), or any person (includ-
10 ing any court or administrative body) act-
11 ing at the direction or upon the request of
12 such individual (or spouse), established
13 (other than by will) such a trust, and

14 “(ii) assets of the individual (as de-
15 fined in subparagraph (B)) were used to
16 form all or part of the corpus of such
17 trust.

18 “(B) ASSETS.—For purposes of this para-
19 graph, assets of an individual include all income
20 and resources of the individual and of the indi-
21 vidual’s spouse, including any income or re-
22 sources which the individual (or spouse) is enti-
23 tled to but does not receive because of action by
24 the individual (or spouse), by a person (includ-
25 ing a court or administrative body) with legal

1 authority to act in place of or on behalf of such
2 individual (or spouse), or by any person (includ-
3 ing any court or administrative body) acting at
4 the direction or upon the request of such indi-
5 vidual (or spouse).

6 “(C) TRUSTS CONTAINING ASSETS OF
7 MORE THAN ONE INDIVIDUAL.—In the case of
8 a trust whose corpus includes assets of an indi-
9 vidual (as determined pursuant to subpara-
10 graph (A)) and assets of any other person or
11 persons, the provisions of this subsection shall
12 apply to the portion of the trust attributable to
13 the assets of the individual.

14 “(3) APPLICATION; RELATION TO OTHER PRO-
15 VISIONS.—Subject to paragraph (4), this subsection
16 shall apply without regard to—

17 “(A) the purposes for which the trust is es-
18 tablished,

19 “(B) whether the trustees have or exercise
20 any discretion under the trust,

21 “(C) any restrictions on when or whether
22 distributions may be made from the trust, or

23 “(D) any restrictions on the use of dis-
24 tributions from the trust.

25 “(4) EXCEPTIONS AND HARDSHIP WAIVER.—

1 “(A) EXCEPTION FOR CERTAIN TRUSTS.—

2 This subsection shall not apply to any of the
3 following trusts:

4 “(i) A trust established for the benefit
5 of a disabled individual (as determined
6 under section 1614(a)(3)) by a parent,
7 grandparent, or other representative payee
8 of the individual.

9 “(ii) A trust established in a State for
10 the benefit of an individual if—

11 “(I) the trust is composed only of
12 pension, Social Security, and other in-
13 come to the individual (and accumu-
14 lated income in the trust),

15 “(II) the State will receive any
16 amounts remaining in the trust upon
17 the death of the individual, and

18 “(III) the State makes medical
19 assistance available to individuals de-
20 scribed in section
21 1902(a)(10)(A)(ii)(V), but does not
22 make such assistance available to any
23 group of individuals under section
24 1902(a)(10)(C).

1 “(B) SPECIAL TREATMENT OF ANNU-
2 ITIES.—In this subsection, the term ‘trust’ in-
3 cludes an annuity only to such extent and in
4 such manner as the Secretary specifies.

5 “(C) HARDSHIP WAIVER.—The State
6 agency shall establish procedures (in accordance
7 with standards specified by the Secretary)
8 under which the agency waives the application
9 of this subsection with respect to an individual
10 if the individual establishes (under criteria es-
11 tablished by the Secretary) that such applica-
12 tion would work an undue hardship on the indi-
13 vidual.”.

14 (e) EFFECTIVE DATE.—(1) The amendments made
15 by this section shall apply, except as provided in this sub-
16 section, to payments under title XIX of the Social Security
17 Act for calendar quarters beginning on or after October
18 1, 1993, without regard to whether or not final regulations
19 to carry out such amendments have been promulgated by
20 such date.

21 (2) The amendments made by this section shall not
22 apply—

23 (A) to medical assistance provided for services
24 furnished before October 1, 1993,

1 (B) with respect to resources disposed of before
2 May 11, 1993,

3 (C) with respect to trusts established before
4 May 11, 1993, or

5 (D) with respect to inter-spousal transfers.

6 **SEC. 5112. MEDICAID ESTATE RECOVERIES.**

7 (a) REQUIRING ESTABLISHMENT OF ESTATE RECOV-
8 ERY PROGRAMS.—

9 (1) IN GENERAL.—Section 1902(a)(51) (42
10 U.S.C. 1396a(a)(51)) is amended by striking “and
11 (B)” and inserting “(B) provide for an estate recov-
12 ery program that meets the requirements of section
13 1917(b)(1), and (C)”.

14 (2) REQUIREMENTS FOR ESTATE RECOVERY
15 PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b))
16 is amended—

17 (A) in paragraph (1)—

18 (i) by striking “(b)(1)” and inserting
19 “(2)”, and

20 (ii) by striking “(a)(1)(B)” and in-
21 serting “(a)(1)(B)(i)”;

22 (B) in paragraph (2), by striking “(2) Any
23 adjustment or recovery under” and inserting
24 “(3) Any adjustment or recovery under an es-
25 tate recovery program under”; and

1 (C) by inserting before paragraph (2), as
2 designated by subparagraph (A), the following:

3 “(b)(1) For purposes of section 1902(a)(51)(B), the
4 requirements for an estate recovery program of a State
5 are as follows:

6 “(A) The program provides for identifying and
7 tracking (and, at the option of the State, preserving)
8 resources (whether excluded or not) of individuals
9 who are furnished any of the following long-term
10 care services for which medical assistance is pro-
11 vided under this title:

12 “(i) Nursing facility services.

13 “(ii) Home and community-based services
14 (as defined in section 1915(d)(5)(C)(i)).

15 “(iii) Services described in section
16 1905(a)(14) (relating to services in an institu-
17 tion for mental diseases).

18 “(iv) Home and community care provided
19 under section 1929.

20 “(v) Community supported living arrange-
21 ments services provided under section 1930.

22 “(B) The program provides for promptly
23 ascertaining—

24 “(i) when such an individual dies;

1 “(ii) in the case of such an individual who
2 was married at the time of death, when the sur-
3 viving spouse dies; and

4 “(iii) at the option of the State, cases in
5 which adjustment or recovery may not be made
6 at the time of death because of the application
7 of paragraph (3)(A) or paragraph (3)(B).

8 “(C)(i) The program provides for the collection
9 consistent with paragraph (3) of an amount (not to
10 exceed the amount described in clause (ii)) from—

11 “(I) the estate of the individual;

12 “(II) in the case of an individual described
13 in subparagraph (B)(ii), from the estate of the
14 surviving spouse; or

15 “(III) at the option of the State, in a case
16 described in subparagraph (B)(iii), from the ap-
17 propriate person.

18 “(ii) The amount described in this clause is the
19 amount of medical assistance correctly paid under
20 this title for long-term care services described in
21 subparagraph (A) furnished on behalf of the individ-
22 ual.”.

23 (b) **HARDSHIP WAIVER.**—Section 1917(b) (42 U.S.C.
24 1396p(b)) is further amended by adding at the end the
25 following new paragraph:

1 “(4) The State agency shall establish procedures (in
2 accordance with standards specified by the Secretary)
3 under which the agency waives the application of this sub-
4 section if such application would work an undue hardship
5 (in accordance with criteria established by the Sec-
6 retary).”.

7 (c) DEFINITION OF ESTATE.—Section 1917(b) (42
8 U.S.C. 1396(b)) is further amended by adding at the end
9 the following new paragraph:

10 “(5) For purposes of this section, the term ‘estate’,
11 with respect to a deceased individual, includes all real and
12 personal property and other assets in which the individual
13 had any legally cognizable title or interest at the time of
14 his death, including such assets conveyed to a survivor,
15 heir, or assign of the deceased individual through joint
16 tenancy, survivorship, life estate, living trust, or other ar-
17 rangement.”.

18 (d) EFFECTIVE DATE.—

19 (1)(A) The amendments made by subsections
20 (a) and (b) apply (except as provided under subpara-
21 graph (B)) to payments under title XIX of the So-
22 cial Security Act for calendar quarters beginning on
23 or after October 1, 1993, without regard to whether
24 or not final regulations or standards to carry out

1 such amendments have been promulgated by such
2 date.

3 (B) In the case of a State plan for medical as-
4 sistance under title XIX of the Social Security Act
5 which the Secretary of Health and Human Services
6 determines requires State legislation (other than leg-
7 islation appropriating funds) in order for the plan to
8 meet the additional requirements imposed by the
9 amendments made by subsections (a) and (b), the
10 State plan shall not be regarded as failing to comply
11 with the requirements of such title solely on the
12 basis of its failure to meet these additional require-
13 ments before the first day of the first calendar quar-
14 ter beginning after the close of the first regular ses-
15 sion of the State legislature that begins after the
16 date of the enactment of this Act. For purposes of
17 the previous sentence, in the case of a State that has
18 a 2-year legislative session, each year of such session
19 shall be deemed to be a separate regular session of
20 the State legislature.

21 (2) The amendments made by this section shall
22 not apply to individuals who died before October 1,
23 1993.

1 **SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY IN-**
2 **DIVIDUALS TO QUALIFY FOR MEDICAID.**

3 (a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C.
4 1396a(r)(2)) is amended by adding at the end the follow-
5 ing:

6 “(C)(i) Notwithstanding subparagraph (A), except as
7 provided in clause (ii), a State plan may not provide pur-
8 suant to this paragraph for disregarding any assets—

9 “(I) to the extent that payments are made
10 under a long-term care insurance policy; or

11 “(II) because an individual has received (or is
12 entitled to receive) benefits for a specified period of
13 time under a long-term care insurance policy.

14 “(ii) Clause (i) shall not apply to State plan provi-
15 sions that are approved as of May 14, 1993.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall take effect on the date of the enact-
18 ment of this Act.

19 **PART IV—IMPROVEMENT IN IDENTIFICATION**
20 **AND COLLECTION OF THIRD PARTY PAYMENTS**

21 **SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE**
22 **AND SERVICES.**

23 (a) LIABILITY OF ERISA PLANS.—(1) Section
24 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended
25 by striking “insurers)” and inserting “insurers and group
26 health plans (as defined in section 607(1) of the Employee

1 Retirement Income Security Act of 1974) and including
2 a service benefit plan and a health maintenance organiza-
3 tion)''.

4 (2) Section 1903(o) of such Act (42 U.S.C. 1396b(o))
5 is amended by striking "regulation)" and inserting "regu-
6 lation and including a group health plan (as defined in
7 section 607(1) of the Employee Retirement Income Secu-
8 rity Act of 1974)), a service benefit plan, and a health
9 maintenance organization''.

10 (b) REQUIRING STATE TO PROHIBIT INSURERS
11 FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Sec-
12 tion 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

13 (1) by striking "and" at the end of subpara-
14 graph (F);

15 (2) by adding "and" at the end of subpara-
16 graph (G); and

17 (3) by adding after subparagraph (G) the fol-
18 lowing new subparagraph:

19 "(H) that the State prohibits any health
20 insurer (including a group health plan, as de-
21 fined in section 607(1) of the Employee Retire-
22 ment Income Security Act of 1974, a service
23 benefit plan, and a health maintenance organi-
24 zation), in enrolling an individual or in making
25 any payments for benefits to the individual or

1 on the individual's behalf, from taking into ac-
2 count that the individual is eligible for or is
3 provided medical assistance under a State
4 plan;”.

5 (c) STATE RIGHT TO SUBROGATION.—Section
6 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by
7 subsection (b), is further amended—

8 (1) by striking “and” at the end of subpara-
9 graph (G);

10 (2) by adding “and” at the end of subpara-
11 graph (H); and

12 (3) by adding after subparagraph (H) the fol-
13 lowing new subparagraph:

14 “(I) that to the extent that payment has
15 been made under the State plan for medical as-
16 sistance in any case where a third party has a
17 legal liability to make payment for such assist-
18 ance, the State is subrogated to the right of any
19 other party to payment for such assistance;”.

20 (d) EFFECTIVE DATE.—(1) Except as provided in
21 paragraph (2), the amendments made by subsections
22 (a)(1), (b), and (c) shall apply to calendar quarters begin-
23 ning on or after October 1, 1993, without regard to wheth-
24 er or not final regulations to carry out such amendments
25 have been promulgated by such date.

1 (2) In the case of a State plan for medical assistance
2 under title XIX of the Social Security Act which the Sec-
3 retary of Health and Human Services determines requires
4 State legislation (other than legislation appropriating
5 funds) in order for the plan to meet the additional require-
6 ments imposed by the amendments made by subsections
7 (a) and (b), the State plan shall not be regarded as failing
8 to comply with the requirements of such title solely on the
9 basis of its failure to meet these additional requirements
10 before the first day of the first calendar quarter beginning
11 after the close of the first regular session of the State leg-
12 islature that begins after the date of the enactment of this
13 Act. For purposes of the previous sentence, in the case
14 of a State that has a 2-year legislative session, each year
15 of such session shall be deemed to be a separate regular
16 session of the State legislature.

17 (3) The amendment made by subsection (a)(2) shall
18 apply to items and services furnished on or after October
19 1, 1993.

20 **SEC. 5117. HEALTH COVERAGE CLEARINGHOUSE.**

21 (a) IN GENERAL.—The Social Security Act is amend-
22 ed by adding at the end the following new title:

1 “TITLE XXI—HEALTH COVERAGE
2 CLEARINGHOUSE

3 “ESTABLISHMENT OF CLEARINGHOUSE

4 “SEC. 2101. (a) IN GENERAL.—The Secretary shall
5 establish and operate a Health Coverage Clearinghouse (in
6 this title referred to as the ‘Clearinghouse’) for the pur-
7 pose of identifying, for beneficiaries of a covered health
8 program (as defined in subsection (c)), third parties
9 (which may include a covered health program) which may
10 be liable for payment for health care items and services
11 furnished to such beneficiaries under such program.

12 “(b) DIRECTOR.—The Clearinghouse shall be headed
13 by a Director (in this title referred to as the ‘Director’)
14 appointed by the Secretary.

15 “(c) COVERED HEALTH PROGRAM DEFINED.—In
16 this title, the term ‘covered health program’ means any
17 of the following under which payment is made for health
18 care items or services furnished to a beneficiary:

19 “(1) The medicare program under title XVIII.

20 “(2) A State plan for medical assistance under
21 title XIX (including a State plan operating under a
22 Statewide waiver under section 1115).

23 “(3) The Indian Health Service and any pro-
24 gram under the Indian Health Care Improvement
25 Act.

1 “(4) A State program under title V that pro-
2 vides payment for items or services.

3 “(d) OTHER DEFINITIONS.—In this title:

4 “(1) The term ‘administrator’ means, with re-
5 spect to the covered health program described in—

6 “(A) subsection (c)(1), the Administrator
7 of the Health Care Financing Administration;

8 “(B) subsection (c)(2), the single State
9 agency referred to in section 1902(a)(5);

10 “(C) subsection (c)(3), the Director of the
11 Indian Health Service; and

12 “(D) subsection (c)(4), the State agency
13 receiving funds under title V.

14 “(2) The term ‘group health plan’ has the
15 meaning given such term in section
16 6103(l)(12)(E)(ii) of such Code.

17 “(3) The term ‘qualified employer’ has the
18 meaning given such term in section
19 6103(l)(12)(E)(iii) of the Internal Revenue Code of
20 1986.

21 “PROVISION OF INFORMATION

22 “SEC. 2102. (a) REQUEST FOR INFORMATION.—An
23 administrator of a covered health program may request
24 from the Director information concerning the employment
25 and group health coverage of a program beneficiary, the
26 beneficiary’s spouse, and (if the beneficiary is a dependent

1 child) the beneficiary's parents. The Director shall provide
2 such information if the request—

3 “(1) is in such form and manner and at such
4 a time as the Director may require, and

5 “(2) specifies the name and tax identification
6 number of the beneficiary.

7 “(b) DATA MATCHING PROGRAM.—

8 “(1) REQUEST BY DIRECTOR.—The Director
9 shall, at such intervals as the Director finds appro-
10 priate, transmit to the Secretary of the Treasury the
11 names and tax identification numbers of bene-
12 ficiaries with respect to whom a request has been
13 made pursuant to subsection (a), and request that
14 such Secretary disclose to the Commissioner of So-
15 cial Security the following information:

16 “(A) Whether the beneficiary is married
17 and, if so, the name of the spouse and such
18 spouse's tax identification number.

19 “(B) If the beneficiary is a dependent
20 child, the name of and tax identification num-
21 bers of the beneficiary's parents.

22 “(2) INFORMATION FROM COMMISSIONER OF
23 SOCIAL SECURITY.—The Secretary, acting through
24 the Commissioner of Social Security, shall, upon

1 written request from the Director, disclose to the Di-
2 rector, the following information:

3 “(A) For each individual who is identified
4 as having received wages (as defined in section
5 3401(a) of the Internal Revenue Code of 1986)
6 from, and as having available coverage under a
7 group health plan of, an employer in a previous
8 year—

9 “(i) the name and taxpayer identifica-
10 tion number of the individual;

11 “(ii) the name, address, and taxpayer
12 identification number of the employer, and
13 whether such employer is a qualified em-
14 ployer; and

15 “(iii) whether the employer has made
16 available a group health plan to the em-
17 ployee and the plan coverage provided (if
18 any) with respect to the employee and fam-
19 ily members of the employee under the
20 group health plan.

21 “(B) For each individual who is identified
22 as married and whose spouse is identified as
23 having received wages (as defined in section
24 3401(a) of the Internal Revenue Code of 1986)
25 from, and as having available coverage under a

1 group health plan of, an employer in a previous
2 year—

3 “(i) the name and taxpayer identifica-
4 tion number of the individual and of the
5 individual’s spouse;

6 “(ii) the name, address, and taxpayer
7 identification number of the spouse’s em-
8 ployer, and whether such employer is a
9 qualified employer; and

10 “(iii) whether the spouse’s employer
11 has made available a group health plan to
12 the spouse and the plan coverage provided
13 (if any) with respect to the spouse and
14 family members of the spouse under the
15 group health plan.

16 “(C) For each individual who is identified
17 as a dependent child and whose parent is iden-
18 tified as having received wages (as defined in
19 section 3401(a) of the Internal Revenue Code
20 of 1986) from, and as having available coverage
21 under a group health plan of, an employer in a
22 previous year—

23 “(i) the name and taxpayer identifica-
24 tion number of the individual and of the
25 individual’s parent;

1 “(ii) the name, address, and taxpayer
2 identification number of the parent’s em-
3 ployer, and whether such employer is a
4 qualified employer; and

5 “(iii) whether the parent’s employer
6 has made available a group health plan to
7 the parent and the plan coverage provided
8 (if any) with respect to the parent and de-
9 pendent children of the parent under the
10 group health plan.

11 “(3) INFORMATION FROM EMPLOYERS.—The
12 Director shall—

13 “(A) request, from the employer of each
14 individual (including each spouse) with respect
15 to whom information was received from the
16 Commissioner of Social Security pursuant to
17 paragraph (2), specific information concerning
18 coverage of such individual (and of the individ-
19 ual’s spouse and dependent children) under the
20 employer’s group health plan (including the pe-
21 riod and nature of the coverage, and the name,
22 address, and identifying number of the plan),
23 and

24 “(B) furnish the information received in
25 response to such request with respect to an in-

1 dividual (or such individual's spouse or depend-
2 ent children) to the administrator requesting
3 such information pursuant to subsection (a).

4 “REQUIREMENT THAT EMPLOYERS FURNISH
5 INFORMATION

6 “SEC. 2103. (a) IN GENERAL.—An employer shall
7 furnish to the Director the information requested pursu-
8 ant to section 2102(b)(3) within 30 days after receipt of
9 such a request.

10 “(b) SUNSET ON REQUIREMENT.—Subsection (a)
11 shall not apply to inquiries made after September 30,
12 1998.

13 “(c) CIVIL MONEY PENALTY FOR FAILURE TO CO-
14 OPERATE.—

15 “(1) IN GENERAL.—An employer (other than a
16 Federal or other governmental entity) who willfully
17 or repeatedly fails to provide timely and accurate re-
18 sponse to a request for information pursuant to sec-
19 tion 2102(b)(3) shall be subject, in addition to any
20 other penalties that may be prescribed by law, to a
21 civil money penalty of not to exceed \$1,000 for each
22 individual with respect to whom such a request is
23 made.

24 “(2) ENFORCEMENT AUTHORITY.—In cases of
25 failure to respond to the Director in accordance with
26 subsection (a) to inquiries relating to requests pur-

1 suant to section 2102, the provisions of section
2 1128A (other than subsections (a) and (b)) shall
3 apply to civil money penalties under paragraph (1)
4 in the same manner as such provisions apply to pen-
5 alties or proceedings under section 1128A(a).

6 “DATA BANK

7 “SEC. 2104. (a) MAINTENANCE OF INFORMATION.—
8 The Clearinghouse shall maintain a data bank, containing
9 information on individuals obtained pursuant to this title.
10 Individual information in the data bank shall be retained
11 for not less than one year after the date the information
12 was obtained.

13 “(b) DISCLOSURE OF INFORMATION IN DATA
14 BANK.—

15 “(1) IN GENERAL.—The Director is authorized
16 (subject to paragraph (2)) to disclose any informa-
17 tion in the data bank established pursuant to sub-
18 section (a) with respect to an individual (or an indi-
19 vidual’s spouse or parent)—

20 “(A) to the Commissioner of Social Secu-
21 rity, the Secretary of the Treasury, administra-
22 tors, employers, and insurers, to the extent nec-
23 essary to assist such administrators;

24 “(B) to Federal and State law enforcement
25 officials responsible for enforcement of civil or
26 criminal laws, in connection with investigations

1 or administrative or judicial law enforcement
2 proceedings relating to a covered health pro-
3 gram; and

4 “(C) for research or statistical purposes.

5 “(2) RESTRICTIONS ON DISCLOSURE.—Informa-
6 tion in the data bank may be disclosed under this
7 subsection only for purposes of, and to the extent
8 necessary in, determining the extent to which an in-
9 dividual is covered under any group health plan.

10 “(c) USE OF CONTRACTORS.—The responsibilities of
11 the Clearinghouse under this section may be carried out
12 by contract.

13 “(d) FEES.—The Clearinghouse shall—

14 “(1) establish fees for services under this sec-
15 tion designed to cover the full costs to the Clearing-
16 house of providing such services, and

17 “(2) require the payment of such fees to pro-
18 vide such services.”.

19 (b) CONFORMING MEDICARE AMENDMENTS.—Sec-
20 tion 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

21 (1) in subparagraph (A)(i)—

22 (A) by striking “Secretary of the Treas-
23 ury” and inserting “Director of the Health Cov-
24 erage Clearinghouse”,

1 (B) by striking “(as defined in section
2 6103(l)(12) of the Internal Revenue Code of
3 1986)” and inserting “(as defined in clause
4 (iii))”, and

5 (C) by striking “and request” and all that
6 follows and inserting a period;

7 (2) in subparagraph (A)(ii)—

8 (A) by striking “the Commissioner of the
9 Social Security Administration” and all that
10 follows and inserting “the Director of the
11 Health Coverage Clearinghouse to obtain and
12 disclose to the Administrator, pursuant to sec-
13 tion 2102(b) and to subparagraph (C) of sec-
14 tion 6103(l)(12) of the Internal Revenue Code
15 of 1986, the information described in section
16 2102(b) and subparagraph (B) of such section
17 6103(l)(12).”, and

18 (B) by inserting “, pursuant to section
19 1144(c),” after “disclose to the Administrator”;
20 and

21 (3) by striking subparagraph (C).

22 (c) MEDICAID USE OF CLEARINGHOUSE.—Section
23 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended
24 by inserting “(including making appropriate requests to

1 the Director of the Health Coverage Clearinghouse under
2 section 2102)” after “all reasonable measures”.

3 (d) COLLECTION OF THIRD PARTY PAYMENTS
4 UNDER MATERNAL AND CHILD HEALTH BLOCK GRANT
5 PROGRAM.—Section 505(a) (42 U.S.C. 705(a)) is amend-
6 ed—

7 (1) by striking “and” at the end of paragraph
8 (4),

9 (2) by striking the period at the end of para-
10 graph (5) and inserting “; and”, and

11 (3) by inserting after paragraph (5) the follow-
12 ing new paragraph:

13 “(6) provides for an entity providing health
14 services with assistance from the State under this
15 title taking all reasonable steps—

16 “(A) to ascertain the legal liability of third
17 parties to pay for such services, and

18 “(B) where such liability is found to exist,
19 to seek reimbursement for such services.”.

20 (e) EFFECTIVE DATES.—

21 (1) The amendments made by subsections (a),
22 (b), and (d) shall take effect on April 1, 1995.

23 (2) The amendments made by subsection (c)
24 shall apply to allotments for years beginning with
25 fiscal year 1994.

1 **SEC. 5118. MEDICAL CHILD SUPPORT.**

2 (a) STATE PLAN REQUIREMENT.—Section
3 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by
4 striking “owed to recipients” and inserting “and have in
5 effect laws relating to medical child support”.

6 (b) MEDICAL CHILD SUPPORT LAWS.—Section 1912
7 of such Act (42 U.S.C. 1396k) is amended—

8 (1) by adding at the end of the heading the fol-
9 lowing: “; REQUIRED LAWS RELATING TO MEDICAL
10 CHILD SUPPORT”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(c) The laws relating to medical child support, which
14 a State is required to have in effect under section
15 1902(a)(45), are as follows:

16 “(1) A law that prohibits an insurer from deny-
17 ing enrollment of a child under the health coverage
18 of the child’s parent on the ground that the child
19 was born out of wedlock, on the ground that the
20 child may not be claimed as a dependent on the par-
21 ent’s Federal income tax return, or on the ground
22 that the child does not reside with the parent or in
23 the insurer’s service area. In this subsection, the
24 term ‘insurer’ includes a group health plan, as de-
25 fined in section 607(1) of the Employee Retirement
26 Income Security Act of 1974, a health maintenance

1 organization, and an entity offering a service benefit
2 plan.

3 “(2) A law that requires an insurer, in any case
4 in which a parent is required by court or administra-
5 tive order to provide health coverage for a child and
6 the parent is eligible for family health coverage
7 through the insurer—

8 “(A) to permit such parent, upon applica-
9 tion and without regard to any enrollment sea-
10 son restrictions, to enroll the parent and such
11 child under such family coverage;

12 “(B) if such a parent is enrolled but fails
13 to make application to obtain coverage of such
14 child, to enroll such child under such family
15 coverage upon application by the child’s other
16 parent or by the State agency administering the
17 program under this title or part D of title IV;
18 and

19 “(C) not to disenroll (or eliminate coverage
20 of) such a child unless the insurer is provided
21 satisfactory written evidence that—

22 “(i) such court or administrative
23 order is no longer in effect, or

24 “(ii) the child is or will be enrolled in
25 comparable health coverage through an-

1 other insurer which will take effect not
2 later than the effective date of such
3 disenrollment.

4 “(3) A law that requires an employer doing
5 business in the State, in the case of health coverage
6 offered through employment with the employer and
7 providing coverage of a child of an employee pursu-
8 ant to a court or administrative order, to withhold
9 from such employee’s compensation the employee’s
10 share (if any) of premiums for health coverage (to
11 the maximum amount permitted under section
12 303(b) of the Consumer Credit Protection Act) and
13 to pay such share of premiums to the insurer.

14 “(4) A law that prohibits an insurer from im-
15 posing requirements upon a State agency, which is
16 acting as an agent or subrogee of an individual eligi-
17 ble for medical assistance under this title and cov-
18 ered for health benefits from the insurer, that are
19 different from requirements applicable to an agent
20 or subrogee of any other individual so covered.

21 “(5) A law that requires an insurer, in any case
22 in which a child has health coverage through the in-
23 surer of a noncustodial parent—

1 “(A) to provide such information to the
2 custodial parent as may be necessary for the
3 child to obtain benefits through such coverage;

4 “(B) to permit the custodial parent (or
5 provider, with the custodial parent’s approval)
6 to submit claims for covered services without
7 the approval of the noncustodial parent; and

8 “(C) to make payment on claims submitted
9 in accordance with subparagraph (B) directly to
10 the custodial parent or the provider.

11 “(6) A law that requires the State agency under
12 this title to garnish the wages, salary, or other em-
13 ployment income of, and to withhold amounts from
14 State tax refunds to, any person who—

15 “(A) is required by court or administrative
16 order to provide coverage of the costs of health
17 services to a child who is eligible for medical as-
18 sistance under this title,

19 “(B) has received payment from a third
20 party for the costs of such services to such
21 child, but

22 “(C) has not used such payments to reim-
23 burse, as appropriate, either the other parent or
24 guardian of such child or the provider of such
25 services,

1 to the extent necessary to reimburse the State agen-
2 cy for expenditures for such costs under its plan
3 under this title, but any claims for current or past-
4 due child support shall take priority over any such
5 claims for the costs of such services.”.

6 (c) EFFECTIVE DATE.—(1) Except as provided in
7 paragraph (2), the amendments made by this section
8 apply to calendar quarters beginning on or after April 1,
9 1994, without regard to whether or not final regulations
10 to carry out such amendments have been promulgated by
11 such date.

12 (2) In the case of a State plan under title XIX of
13 the Social Security Act which the Secretary of Health and
14 Human Services determines requires State legislation in
15 order for the plan to meet the additional requirements im-
16 posed by the amendments made by this section, the State
17 plan shall not be regarded as failing to comply with the
18 requirements of such title solely on the basis of its failure
19 to meet these additional requirements before the first day
20 of the first calendar quarter beginning after the close of
21 the first regular session of the State legislature that be-
22 gins after the date of enactment of this Act. For purposes
23 of the previous sentence, in the case of a State that has
24 a 2-year legislative session, each year of such session shall

1 be deemed to be a separate regular session of the State
2 legislature.

3 **PART V—ASSURING PROPER PAYMENTS TO**
4 **DISPROPORTIONATE SHARE HOSPITALS**

5 **SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPOR-**
6 **TIONATE SHARE HOSPITALS.**

7 (a) DISPROPORTIONATE SHARE HOSPITALS RE-
8 QUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO
9 MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r-
10 4) is amended—

11 (1) in subsection (a)(1)(A), by striking “re-
12 quirement” and inserting “requirements”;

13 (2) in subsection (b)(1), by striking “require-
14 ment” and inserting “requirements”;

15 (3) in the heading to subsection (d), by striking
16 “REQUIREMENT” and inserting “REQUIREMENTS”;

17 (4) by adding at the end of subsection (d) the
18 following new paragraph:

19 “(3) No hospital may be defined or deemed as
20 a disproportionate share hospital under a State plan
21 under this title or under subsection (b) or (e) of this
22 section unless the hospital has a medicaid inpatient
23 utilization rate (as defined in subsection (b)(2)) of
24 not less than 1 percent.”;

25 (5) in subsection (e)(1)—

1 (A) by striking “and” before “(B)”, and

2 (B) by inserting before the period at the
3 end the following: “, and (C) the plan meets the
4 requirement of subsection (d)(3) and such pay-
5 ment adjustments are made consistent with the
6 fourth sentence of subsection (c)”; and

7 (6) in subsection (e)(2)—

8 (A) in subparagraph (A), by inserting
9 “(other than the fourth sentence of subsection
10 (c))” after “(c)”,

11 (B) by striking “and” at the end of sub-
12 paragraph (A),

13 (C) by striking the period at the end of
14 subparagraph (B) and inserting “, and”, and

15 (D) by adding at the end the following new
16 subparagraph:

17 “(C) subsection (d)(3) shall apply.”.

18 (b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS
19 FOR STATE OR COUNTY HOSPITALS TO UNCOVERED
20 COSTS.—Subsection (c) of such section is amended by
21 adding at the end the following: “A payment adjustment
22 during a year is not considered to be consistent with this
23 subsection with respect to a hospital owned or operated
24 by a State (or by an instrumentality of or a unit of govern-
25 ment within a State) if the payment adjustment exceeds

1 the costs of furnishing hospital services (as determined by
2 the Secretary and net of payments under this title, other
3 than under this section, and by uninsured patients) by the
4 hospital to individuals who either are eligible for medical
5 assistance under the State plan or have no health insur-
6 ance (or other source of third party payment) for such
7 services during the year. For purposes of the preceding
8 sentence, payments made to a hospital for services pro-
9 vided to indigent patients made by a State or a unit of
10 local government within a State shall not be considered
11 to be a source of third party payment.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to payments to States under sec-
14 tion 1903(a) of the Social Security Act for payments to
15 hospitals made under State plans after—

16 (1) the end of the State fiscal year that ends
17 during 1994, or

18 (2) in the case of a State with a State legisla-
19 ture which is not scheduled to have a regular legisla-
20 tive session in 1994, the end of the State fiscal year
21 that ends during 1995;

22 without regard to whether or not final regulations to carry
23 out such amendments have been promulgated by either
24 such date.

1 **Subchapter B—Miscellaneous Provisions**

2 **PART I—ANTI-FRAUD AND ABUSE PROVISIONS**

3 **SEC. 5131. APPLICATION OF MEDICARE RULES LIMITING**

4 **CERTAIN PHYSICIAN REFERRALS.**

5 (a) IN GENERAL.—Section 1903(i) (42 U.S.C.
6 1396b(i)), as amended by section 5174(b), is amended—

7 (A) in paragraph (12), by striking or at
8 the end,

9 (B) in paragraph (13), by striking the pe-
10 riod at the end and inserting “; or”, and

11 (C) by inserting after paragraph (13) the
12 following new paragraph:

13 “(14) with respect to any amount expended for
14 an item or service for which payment would be de-
15 nied under section 1877(g)(1) if the item or service
16 were furnished to an individual entitled to benefits
17 under title XVIII.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to items and services furnished
20 on or after October 1, 1993.

21 **SEC. 5132. INTERMEDIATE SANCTIONS FOR KICKBACK VIO-**

22 **LATIONS.**

23 (a) PENALTY FOR KICKBACKS.—Section 1128A(a)
24 (42 U.S.C. 1320a-7a(a)) is amended—

1 (1) by striking “or” at the end of paragraphs
2 (1) and (2);

3 (2) by adding “or” at the end of paragraph (3);

4 (3) by inserting after paragraph (3) the follow-
5 ing new paragraph:

6 “(4) carries out any activity in violation of
7 paragraph (1) or (2) of section 1128B(b);”;

8 (4) by striking “given).” at the end of the first
9 sentence and inserting “given or, in cases under
10 paragraph (4), \$50,000 for each such violation).”;

11 (5) in the second sentence, by inserting “in
12 cases under paragraphs (1), (2), and (3),” after “In
13 addition,”; and

14 (6) by inserting after the second sentence, the
15 following new sentence: “In cases under paragraph
16 (4), such a person shall be subject to an assessment
17 of not more than twice the total amount of the re-
18 munerations offered, paid, solicited, or received in
19 violation of section 1128B(b), determined without
20 regard to whether a portion of such remuneration
21 was offered, paid, solicited, or received for a lawful
22 purpose.”.

23 (b) AUTHORIZATION TO ACT.—The first sentence of
24 section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is
25 amended by striking all that follows “(b)” and inserting

1 the following: “unless, within one year after the date the
2 Secretary presents a case to the Attorney General for con-
3 sideration, the Attorney General brings an action in a dis-
4 trict court of the United States.”.

5 (c) EFFECTIVE DATES.—

6 (1) The amendments made by subsection (a)
7 shall apply to remuneration offered, paid, solicited,
8 or received before, on, or after the date of the enact-
9 ment of this Act.

10 (2) The amendment made by subsection (b)
11 shall apply to cases presented by the Secretary of
12 Health and Human Services for consideration on or
13 after the date of the enactment of this Act.

14 **SEC. 5133. REQUIRING MAINTENANCE OF EFFORT FOR**
15 **STATE MEDICAID FRAUD CONTROL UNITS.**

16 (a) IN GENERAL.—Section 1902(a)(49) (42 U.S.C.
17 1396a(a)(49)) is amended—

18 (1) by inserting “(A)” after “(49)”, and

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(B) provide that the State will expend for its
22 medicaid fraud and abuse control unit (as defined in
23 section 1903(q)), for each State fiscal year, an
24 amount that is not less than the amount expended
25 for such unit in the State fiscal year that ended in

1 1992 adjusted to reflect the percentage increase in
2 total expenditures under the State plan between
3 such State fiscal year and the State fiscal year in-
4 volved;”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall apply to State fiscal years ending after
7 1993.

8 **PART II—MANAGED CARE PROVISIONS**

9 **SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVI-**
10 **SIONS.**

11 (a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS
12 DEBARRED BY FEDERAL AGENCIES.—

13 (1) IN GENERAL.—Section 1903(m) (42 U.S.C.
14 1396b(m)) is amended—

15 (A) in paragraph (2)(A)—

16 (i) by striking “and” at the end of
17 clause (x),

18 (ii) by striking the period at the end
19 of clause (xi) and inserting “; and”, and

20 (iii) by adding at the end the follow-
21 ing new clause:

22 “(xii) the entity complies with the requirements
23 of paragraph (3) (relating to certain protections
24 against fraud and abuse).”;

1 (B) in paragraph (2)(B), as amended by
2 section 5158(b), by striking “clause (ix)” and
3 inserting “clauses (ix) and (xii)”;

4 (C) by inserting after paragraph (2) the
5 following new paragraph:

6 “(3)(A)(i) A health maintenance organization may
7 not have a person described in clause (iv) as a director,
8 officer, partner, or person with beneficial ownership of
9 more than 5 percent of organization’s equity.

10 “(ii) A health maintenance organization may not have
11 an employment, consulting, or other agreement with a per-
12 son described in clause (iv) for the provision of goods and
13 services that are significant and material to the organiza-
14 tion’s obligations under its contract with the State de-
15 scribed in paragraph (2)(A)(iii).

16 “(iii) If a health maintenance organization is not in
17 compliance with clause (i) or clause (ii)—

18 “(I) a State may continue an existing agree-
19 ment with the organization unless the Secretary (in
20 consultation with the Inspector General of the De-
21 partment of Health and Human Services) directs
22 otherwise; and

23 “(II) a State may not renew or otherwise ex-
24 tend the duration of an existing agreement with the
25 organization unless the Secretary (in consultation

1 with the Inspector General of the Department of
2 Health and Human Services) provides a written
3 statement describing compelling reasons that exist
4 for renewing or extending the agreement.

5 “(iv) A person described in this clause is a person
6 that—

7 “(I) is debarred or suspended by the Federal
8 Government, pursuant to the Federal acquisition
9 regulation, from Government contracting and sub-
10 contracting, or

11 “(II) is an affiliate (within the meaning of the
12 Federal acquisition regulation) of a person described
13 in subclause (I).”.

14 (2) EFFECTIVE DATE.—The amendments made
15 by paragraph (1) shall apply to agreements between
16 a State and an entity under section 1903(m) of the
17 Social Security Act entered into or renewed on or
18 after October 1, 1993, without regard to whether
19 regulations to carry out such amendments are pro-
20 mulgated by such date.

21 (b) REQUIREMENT FOR STATE CONFLICT-OF-INTER-
22 EST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

23 (1) IN GENERAL.—Section 1903(m)(2)(A) (42
24 U.S.C. 1396b(m)(2)(A)), as amended by subsection
25 (a)(1)(C), is amended—

1 (A) by striking “and” at the end of clause
2 (xi),

3 (B) by striking the period at the end of
4 clause (xii) and inserting “; and”, and

5 (C) by adding at the end the following new
6 clause:

7 “(xiii) the State certifies to the Secretary that
8 it has in effect conflict-of-interest safeguards with
9 respect to officers and employees of the State with
10 responsibility with respect to contracts with organi-
11 zations under this subsection that are at least as ef-
12 fective as the Federal safeguards, provided under
13 section 27 of the Office of Federal Procurement Pol-
14 icy Act (41 U.S.C. 423), against conflicts of interest
15 that apply with respect to Federal procurement offi-
16 cials with comparable responsibilities with respect to
17 such contracts.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply as of July 1, 1994,
20 without regard to whether regulations to carry out
21 such amendments are promulgated by such date.

22 (c) REQUIRING DISCLOSURE OF FINANCIAL INFOR-
23 MATION.—

1 (1) IN GENERAL.—Section 1903(m)(3), as in-
2 serted by subsection (a)(1)(C), is amended by add-
3 ing at the end the following new subparagraph:

4 “(B) The contract between the State and an entity
5 referred to in paragraph (2)(A)(iii) shall provide that—

6 “(i) the entity agrees to report to the State
7 such financial information as the Secretary or the
8 State may require to demonstrate that the entity has
9 a fiscally sound operation; and

10 “(ii) the entity agrees to make available to its
11 enrollees upon reasonable request—

12 “(I) the information reported under para-
13 graph (1),

14 “(II) the information required to be dis-
15 closed under sections 1124 and 1126, and

16 “(III) a description of each transaction,
17 described in subparagraphs (A) through (C) of
18 section 1318(a)(3) of the Public Health Service
19 Act, between the entity and a party in interest
20 (as defined in section 1318(b) of such Act).”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall apply to contract years begin-
23 ning on or after October 1, 1993, without regard to
24 whether regulations to carry out such amendments
25 are promulgated by such date, with respect to infor-

1 mation reported or required to be disclosed, or
2 transactions occurring, before, on, or after such
3 date.

4 (d) PROHIBITING MARKETING FRAUD.—

5 (1) IN GENERAL.—Section 1903(m)(3), as in-
6 serted by subsection (a)(1) and as amended by sub-
7 section (c)(1), is amended by adding at the end the
8 following new subparagraph:

9 “(C) The contract between the State and an entity
10 referred to in paragraph (2)(A)(iii) shall provide that the
11 entity agrees to comply with such procedures and condi-
12 tions as the Secretary prescribes in order to ensure that,
13 before an individual is enrolled with the entity, the individ-
14 ual is provided accurate and sufficient information to
15 make an informed decision whether or not to enroll.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply to contract years that
18 begin on or after October 1, 1993, without regard
19 to whether regulations to carry out such amendment
20 are promulgated by such date.

21 (e) REQUIRING ADEQUATE EQUITY FOR FOR-PROFIT
22 ENTITIES.—

23 (1) IN GENERAL.—Section 1903(m)(3), as pre-
24 viously amended by this section, is further amended

1 by adding at the end the following new subpara-
2 graph:

3 “(D)(i) The contract between the State and an entity
4 referred to in paragraph (2)(A)(iii) shall require, in the
5 case of a for-profit entity, that the entity shall maintain
6 an average ratio of—

7 “(I) equity capital to

8 “(II) payments made by the State to the entity
9 under the contract on a capitation basis or any other
10 risk basis,

11 of not less than such minimum ratio as the Secretary shall
12 specify.

13 “(ii) The contract between the State and a non-profit
14 entity referred to in paragraph (2)(A)(iii) shall require
15 that no payment shall be made directly or indirectly under
16 an agreement between the non-profit entity and a related
17 for-profit entity (as defined by the Secretary) unless the
18 for-profit entity maintains an average ratio of equity cap-
19 ital to payments under such agreement of not less than
20 such ratio as the Secretary shall specify.”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall apply to contract years begin-
23 ning on or after July 1, 1994, without regard to
24 whether regulations to carry out such amendment
25 are promulgated by such date.

1 (f) REQUIRING ADEQUATE PROVISION AGAINST RISK
2 OF INSOLVENCY.—

3 (1) IN GENERAL.—Section 1903(m)(1)(A)(ii)
4 (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by in-
5 sserting “, which meets such standards as the Sec-
6 retary shall prescribe” after “satisfactory to the
7 State”.

8 (2) EFFECTIVE DATE AND TRANSITION.—(A)
9 The amendment made by paragraph (1) shall apply
10 to contract years beginning on or after July 1, 1994,
11 without regard to whether regulations to carry out
12 such amendments are promulgated by such date.

13 (B) If the Secretary of Health and Human
14 Services has not promulgated standards to carry out
15 the amendment made by paragraph (1) by July 1,
16 1994, until such standards have been promulgated a
17 provision of a health maintenance organization
18 against the risk of insolvency shall not be considered
19 to meet standards prescribed by the Secretary, for
20 purposes of section 1903(m)(1)(A)(ii) of the Social
21 Security Act, unless such provision has been found
22 satisfactory by the Secretary under section
23 1876(b)(2)(E) of such Act.

24 (g) REQUIRING REPORT ON NET EARNINGS AND AD-
25 DITIONAL BENEFITS.—

1 (1) IN GENERAL.—Section 1903(m)(3), as pre-
2 viously amended by this section, is amended by add-
3 ing at the end the following new subparagraph:

4 “(E) The contract between the State and an entity
5 referred to in paragraph (2)(A)(iii) shall provide that the
6 entity shall submit a report to the State and the Secretary
7 not later than 12 months after the close of a contract year
8 containing—

9 “(i) a financial statement of the entity’s net
10 earnings under the contract during the contract
11 year, which statement has been audited using audit-
12 ing standards established by the Secretary in con-
13 sultation with the States; and

14 “(ii) a description of any benefits that are in
15 addition to the benefits required to be provided
16 under the contract that were provided during the
17 contract year to members enrolled with the entity
18 and entitled to medical assistance under the plan.”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall apply to contract years begin-
21 ning on or after October 1, 1993, without regard to
22 whether regulations to carry out such amendments
23 are promulgated by such date.

24 (h) REPORT ON NET EARNINGS OF CONTRACTORS.—
25 Not later than 6 months after the date of the enactment

1 of this Act, the Secretary of Health and Human Services
2 shall submit a report to Congress on the earnings of orga-
3 nizations with contracts to receive payment for providing
4 medical assistance under title XIX of the Social Security
5 Act on a prepaid capitation or any other risk basis. The
6 report shall include the Secretary's recommendations on
7 options for requiring such organizations, as a condition
8 of participation under such title, to dedicate a portion of
9 such earnings to the provision of additional benefits to in-
10 dividuals enrolled with the organization.

11 **SEC. 5136. CLARIFICATION OF TREATMENT OF HMO EN-**
12 **ROLLEES IN COMPUTING THE MEDICAID IN-**
13 **PATIENT UTILIZATION RATE IN QUALIFYING**
14 **HOSPITALS AS DISPROPORTIONATE SHARE**
15 **HOSPITALS.**

16 (a) IN GENERAL.—Section 1923(b)(2) (42 U.S.C.
17 1396r-4(b)(2)) is amended by inserting before the period
18 at the end the following: “and whether or not the individ-
19 ual is enrolled with an entity contracting with the State
20 on a prepaid capitation basis or other risk basis under sec-
21 tion 1903(m)”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to payments to States under sec-
24 tion 1903(a) of the Social Security Act for payments to
25 hospitals made under State plans on and after the first

1 day of the first calendar quarter beginning after the date
2 of the enactment of this Act.

3 **SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF**
4 **ENROLLMENT MIX REQUIREMENT TO CER-**
5 **TAIN HEALTH MAINTENANCE ORGANIZA-**
6 **TIONS PROVIDING SERVICES UNDER DAYTON**
7 **AREA HEALTH PLAN.**

8 Section 2 of Public Law 102-276 is amended by
9 striking “January 31, 1994” and inserting “December 31,
10 1995”.

11 **SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TEN-**
12 **NESSEE PRIMARY CARE NETWORK.**

13 Section 6411(f) of the Omnibus Budget Reconcili-
14 ation Act of 1989, as amended by section 1 of Public Law
15 102-317, is amended by striking “January 31, 1994” and
16 inserting “December 31, 1995”.

17 **SEC. 5139. WAIVER OF APPLICATION OF MEDICAID EN-**
18 **ROLLMENT MIX REQUIREMENT TO DISTRICT**
19 **OF COLUMBIA CHARTERED HEALTH PLAN,**
20 **INC.**

21 (a) IN GENERAL.—The Secretary of Health and
22 Human Services shall waive the application of the require-
23 ment described in section 1903(m)(2)(A)(ii) of the Social
24 Security Act to the entity known as the District of Colum-
25 bia Chartered Health Plan, Inc., for the period described

1 in subsection (b), if the Secretary determines that the en-
2 tity is making continuous efforts and progress toward
3 achieving compliance with such requirement.

4 (b) PERIOD OF APPLICABILITY.—The period referred
5 to in subsection (a) is the period that begins on October
6 1, 1992, and ends on December 31, 1995.

7 **SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID**
8 **DEMONSTRATION PROJECT.**

9 (a) IN GENERAL.—Section 507 of the Family Sup-
10 port Act of 1988, as amended by section 6411(j) of
11 OBRA–1989 and by section 4733 of OBRA–1990, is
12 amended by striking “1996” and inserting “1998”.

13 (b) AUTHORITY TO IMPOSE PREMIUM.—

14 (1) IN GENERAL.—Notwithstanding section
15 1916 of the Social Security Act and subject to para-
16 graph (2), the State of Minnesota may impose a pre-
17 mium on individuals receiving medical assistance
18 under the Minnesota Prepaid Demonstration Project
19 operated under a waiver granted by the Secretary of
20 Health and Human Services under section 1115(a)
21 of the Social Security Act and other individuals eligi-
22 ble under the State’s plan for medical assistance
23 under title XIX of such Act.

24 (2) LIMITATION ON AMOUNT OF PREMIUM.—In
25 no case may the amount of any premium imposed on

1 an individual receiving medical assistance under the
2 State plan or under the Demonstration Project de-
3 scribed in paragraph (1) exceed 10 percent of the
4 amount by which the family income (less expenses
5 for the care of a dependent child) of the individual
6 exceeds 110 percent of the income official poverty
7 line (as defined by the Office of Management and
8 Budget), and revised annually in accordance with
9 section 673(2) of the Omnibus Budget Reconcili-
10 ation Act of 1981) applicable to a family of the size
11 involved.

12 **PART III—EMERGENCY SERVICES TO**
13 **UNDOCUMENTED ALIENS**

14 **SEC. 5141. INCREASE IN FEDERAL FINANCIAL PARTICIPA-**
15 **TION FOR EMERGENCY MEDICAL ASSIST-**
16 **ANCE TO UNDOCUMENTED ALIENS.**

17 (a) IN GENERAL.—Section 1905(b) (42 U.S.C.
18 1396d(b)) is amended by adding at the end the following:
19 “Notwithstanding the first sentence of this section, sub-
20 ject to 1903(v)(4), the Federal medical assistance percent-
21 age shall be 100 per centum with respect to amounts ex-
22 pended by an eligible State in a covered fiscal year (as
23 defined in section 1903(v)(4)(C)) as medical assistance for
24 care and services described in section 1903(v)(2) to aliens
25 described in section 1903(v)(1).”.

1 (b) LIMITATION.—Section 1903(v) (42 U.S.C.
2 1396b(v)) is amended by adding at the end the following
3 new paragraphs:

4 “(4)(A) With respect to any eligible State (as defined
5 in subparagraph (C)(i)), the amount of the increase in
6 payments to a State under subsection (a) in a covered fis-
7 cal year (as defined in subparagraph (C)(ii)), resulting
8 from the increase in the Federal medical assistance per-
9 centage under the fourth sentence of section 1905(b), shall
10 not exceed the State’s allotment determined under sub-
11 paragraph (B).

12 “(B)(i) The total of the allotments to all States for
13 a covered fiscal year under this paragraph shall be
14 \$300,000,000.

15 “(ii) From the total allotment under clause (i) for
16 a covered fiscal year, the Secretary shall determine the
17 amount of the allotment for each eligible State. Subject
18 to clause (iii), the amount of such allotment for such a
19 fiscal year shall bear the same ratio to the total amount
20 specified in clause (i) for the fiscal year as the ratio of—

21 “(I) the allotment to the State for fiscal year
22 1993 under section 204 of the Immigration Reform
23 and Control Act of 1986, to

24 “(II) the total of such allotments for all such el-
25 igible States for fiscal year 1993.

1 “(iii) In the case of an eligible State which notifies
2 the Secretary that an amount of its allotment will not be
3 used by the State under this paragraph, the State’s allot-
4 ment shall be reduced by such amount and such amount
5 shall be redistributed among the other eligible States in
6 proportion to the amount otherwise allotted to such State
7 under clause (ii).

8 “(C) For purposes of this paragraph and the fourth
9 sentence of section 1905(b):

10 “(i) The term ‘eligible State’ means a State—

11 “(I) with a plan approved under this title
12 (including a State which is providing medical
13 assistance to its residents under a statewide
14 waiver granted under section 1115), and

15 “(II) for which its allotment for fiscal year
16 1993 under section 204 of the Immigration Re-
17 form and Control Act of 1986 is at least 1 per-
18 cent of the total of such allotments for all the
19 States for fiscal year 1993.

20 “(ii) The term ‘covered fiscal year’ means only
21 fiscal year 1994.

22 “(D) Nothing in this paragraph or the fourth sen-
23 tence of section 1905(b) shall be construed as establishing
24 entitlement authority (within the meaning of section 3(9)

1 of the Congressional Budget Act of 1974) for any fiscal
2 year other than a covered fiscal year.”.

3 **SEC. 5142. LIMITING FEDERAL MEDICAID MATCHING PAY-**
4 **MENT TO BONA FIDE EMERGENCY SERVICES**
5 **FOR UNDOCUMENTED ALIENS.**

6 (a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C.
7 1396b(v)(2)) is amended—

8 (1) by striking “and” at the end of subpara-
9 graph (A),

10 (2) by striking the period at the end of sub-
11 paragraph (B) and inserting “, and”, and

12 (3) by adding at the end the following new sub-
13 paragraph:

14 “(C) such care and services are not related to
15 an organ transplant procedure.”.

16 (b) EFFECTIVE DATE.—(1) Subject to paragraph
17 (2), the amendments made by subsection (a) shall apply
18 as if included in the enactment of OBRA–1986.

19 (2) The Secretary of Health and Human Services
20 shall not disallow expenditures made for the care and serv-
21 ices described in section 1903(v)(2)(C) of the Social Secu-
22 rity Act, as added by subsection (a), furnished before the
23 date of the enactment of this Act.

1 **PART IV—MISCELLANEOUS PROVISIONS**

2 **SEC. 5144. INCREASE IN LIMIT ON FEDERAL MEDICAID**
3 **MATCHING PAYMENTS TO PUERTO RICO AND**
4 **OTHER TERRITORIES.**

5 (a) IN GENERAL.—Paragraphs (1) through (5) of
6 section 1108(c) (42 U.S.C. 1308(c)) are amended to read
7 as follows:

8 “(1) Puerto Rico shall not exceed (A)
9 \$104,000,000 for fiscal year 1994 and (B) for each
10 succeeding fiscal year the amount provided in this
11 paragraph for the preceding fiscal year increased by
12 the percentage increase in the medical care compo-
13 nent of the consumer price index for all urban con-
14 sumers (as published by the Bureau of Labor Statis-
15 tics) for the twelve-month period ending in March
16 preceding the beginning of the fiscal year, rounded
17 to the nearest \$100,000;

18 “(2) the Virgin Islands shall not exceed (A)
19 \$3,425,000 for fiscal year 1994, and (B) for each
20 succeeding fiscal year the amount provided in this
21 paragraph for the preceding fiscal year increased by
22 the percentage increase referred to in paragraph
23 (1)(B), rounded to the nearest \$10,000;

24 “(3) Guam shall not exceed (A) \$3,290,000 for
25 fiscal year 1994, and (B) for each succeeding fiscal
26 year the amount provided in this paragraph for the

1 preceding fiscal year increased by the percentage in-
2 crease referred to in paragraph (1)(B), rounded to
3 the nearest \$10,000;

4 “(4) Northern Mariana Islands shall not exceed
5 (A) \$990,000 for fiscal year 1994, and (B) for each
6 succeeding fiscal year the amount provided in this
7 paragraph for the preceding fiscal year increased by
8 the percentage increase referred to in paragraph
9 (1)(B), rounded to the nearest \$10,000; and

10 “(5) American Samoa shall not exceed (A)
11 \$1,910,000 for fiscal year 1994, and (B) for each
12 succeeding fiscal year the amount provided in this
13 paragraph for the preceding fiscal year increased by
14 the percentage increase referred to in paragraph
15 (1)(B), rounded to the nearest \$10,000.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply beginning with fiscal year 1994.

18 **SEC. 5145. CRITERIA FOR MAKING DETERMINATIONS OF**
19 **DENIAL OF FEDERAL MEDICAID MATCHING**
20 **PAYMENTS TO STATES.**

21 (a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b)
22 is amended by adding at the end the following new sub-
23 section:

24 “(x)(1) In any case in which the Secretary proposes
25 to disallow under section 1116(d) a claim by a State under

1 this section and the State exercises its right of reconsider-
2 ation under section 1116(d), the Departmental Appeals
3 Board established in the Department of Health and
4 Human Services shall, if such Board upholds the basis for
5 the disallowance, determine whether the amount of the
6 disallowance should be reduced. In making this determina-
7 tion, the Board shall take into account (to the extent the
8 State makes a showing) factors which shall include—

9 “(A) the nature of the basis for the disallow-
10 ance;

11 “(B) whether the amount of the disallowance is
12 proportionate to the error or deficiency on which the
13 disallowance is based;

14 “(C) whether the basis of the disallowance con-
15 stitutes noncompliance that prevented or materially
16 affected the provision of appropriate services to indi-
17 viduals eligible under this title; or

18 “(D) whether Federal guidance with respect to
19 the action that is the basis for the proposed dis-
20 allowance was insufficient and the State made good
21 faith efforts to conform its action to the intent of
22 the applicable Federal statute or regulation.

23 “(2) No disallowance shall be taken or upheld if the
24 action of the State on which the disallowance would be
25 based is consistent with its approved State plan.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to disallowances made after the
3 date of the enactment of this Act and shall take effect
4 without regard to the promulgation of implementing regu-
5 lations.

6 **SEC. 5146. RENEWAL OF UNFUNDED DEMONSTRATION**
7 **PROJECT FOR LOW-INCOME PREGNANT**
8 **WOMEN AND CHILDREN.**

9 (a) IN GENERAL.—Section 6407 of OBRA–89 is
10 amended—

11 (1) in subsection (d), by striking “3 years” and
12 inserting “5 years”;

13 (2) in subsection (f), by striking “\$10,000,000
14 in each of fiscal years 1990, 1991, and 1992” and
15 inserting “\$30,000,000”; and

16 (3) in subsection (g)(2), by striking “January
17 1, 1994” and inserting “one year after the termi-
18 nation of the demonstration projects”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall take effect as if included in the enact-
21 ment of OBRA–89.

1 **SEC. 5147. OPTIONAL MEDICAID COVERAGE OF TB-RELAT-**
2 **ED SERVICES FOR CERTAIN TB-INFECTED IN-**
3 **DIVIDUALS.**

4 (a) COVERAGE AS OPTIONAL, CATEGORICALLY
5 NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C.
6 1396a(a)(10)(A)(ii)) is amended—

7 (1) by striking “or” at the end of subclause
8 (X),

9 (2) by adding “or” at the end of subclause
10 (XI), and

11 (3) by adding at the end the following new
12 subclause:

13 “(XII) who are described in sub-
14 section (z)(1) (relating to certain TB-
15 infected individuals);”.

16 (b) GROUP AND BENEFIT DESCRIBED.—Section
17 1902 is amended by adding at the end the following new
18 subsection:

19 “(z)(1) Individuals described in this paragraph are
20 individuals not described in subsection (a)(10)(A)(i)—

21 “(A) who have tested positively to be infected
22 with tuberculosis;

23 “(B) whose income (as determined under the
24 State plan under this title with respect to disabled
25 individuals) does not exceed the maximum amount
26 of income a disabled individual described in sub-

1 section (a)(10)(A)(i) may have and obtain medical
2 assistance under the plan; and

3 “(C) whose resources (as determined under the
4 State plan under this title with respect to disabled
5 individuals) do not exceed the maximum amount of
6 resources a disabled individual described in sub-
7 section (a)(10)(A)(i) may have and obtain medical
8 assistance under the plan.

9 “(2) For purposes of subsection (a)(10), the term
10 ‘TB-related services’ means each of the following services
11 relating to treatment of infection with tuberculosis:

12 “(A) Prescribed drugs.

13 “(B) Physicians’ services and services described
14 in section 1905(a)(2).

15 “(C) Laboratory and X-ray services.

16 “(D) Clinic services and Federally-qualified
17 health center services.

18 “(E) Case management services (as defined in
19 section 1915(g)(2)).

20 “(F) Services (other than room and board) de-
21 signed to encourage completion of regimens of pre-
22 scribed drugs by outpatients, including services to
23 observe directly the intake of prescribed drugs.”.

1 (c) LIMITATION ON BENEFITS.—Section
2 1902(a)(10), as amended by section 5162(a), is amended,
3 in the matter following subparagraph (F)—

4 (1) by striking “, and (XII)” and inserting “,
5 (XII)”, and

6 (2) by inserting before the semicolon at the end
7 the following: “, and (XIII) the medical assistance
8 made available to an individual described in sub-
9 section (z)(1) who is eligible for medical assistance
10 only because of subparagraph (A)(ii)(XII) shall be
11 limited to medical assistance for TB-related services
12 (as defined in subsection (z)(2))”.

13 (d) CONFORMING EXPANSION OF CASE MANAGE-
14 MENT SERVICES OPTION.—Section 1915(g)(1) (42 U.S.C.
15 1396n(g)(1)) is amended by inserting “or to individuals
16 described in section 1902(z)(1)(A),” after “or with ei-
17 ther,”.

18 (e) CONFORMING AMENDMENT.—Section 1905(a)
19 (42 U.S.C. 1396d(a)) is amended—

20 (1) by striking “or” at the end of clause (ix),

21 (2) by adding “or” at the end of clause (x),

22 (3) by inserting after clause (x) the following
23 new clause:

24 “(xi) individuals described in section
25 1902(z)(1),”, and

1 (4) by amending paragraph (19) to read as fol-
2 lows:

3 “(19) case management services (as defined in
4 section 1915(g)(2)) and TB-related services de-
5 scribed in section 1902(z)(2)(F);”.

6 (f) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to medical assistance furnished on
8 or after January 1, 1994, without regard to whether or
9 not final regulations to carry out such amendments have
10 been promulgated by such date.

11 **SEC. 5148. APPLICATION OF MAMMOGRAPHY CERTIFI-**
12 **CATION REQUIREMENTS UNDER THE MEDIC-**
13 **AID PROGRAM.**

14 (a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C.
15 1396a(a)(9)) is amended—

16 (1) by striking “and” at the end of subpara-
17 graph (B),

18 (2) by striking the semicolon at the end of sub-
19 paragraph (C) and inserting “, and”, and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(D) that any mammography paid for
23 under such plan must be conducted by a facility
24 that has a certificate (or provisional certificate)

1 issued under section 354 of the Public Health
2 Service Act;”.

3 (b) EFFECTIVE DATE.—(1) Except as provided in
4 paragraph (2), the amendments made by subsection (a)
5 shall apply to mammography furnished by a facility during
6 calendar quarters beginning on or after the first date that
7 the certificate requirements of section 354(b) of the Public
8 Health Service Act apply to such mammography con-
9 ducted by such facility, without regard to whether or not
10 final regulations to carry out such amendments have been
11 promulgated by such date.

12 (2) In the case of a State plan for medical assistance
13 under title XIX of the Social Security Act which the Sec-
14 retary of Health and Human Services determines requires
15 State legislation (other than legislation appropriating
16 funds) in order for the plan to meet the additional require-
17 ment imposed by the amendment made by subsection
18 (a)(3), the State plan shall not be regarded as failing to
19 comply with the requirements of such title solely on the
20 basis of its failure to meet this additional requirement be-
21 fore the first day of the first calendar quarter beginning
22 after the close of the first regular session of the State leg-
23 islature that begins after the date of the enactment of this
24 Act. For purposes of the previous sentence, in the case
25 of a State that has a 2-year legislative session, each year

1 of such session shall be deemed to be a separate regular
2 session of the State legislature.

3 **SEC. 5149. REMOVAL OF SUNSET ON EXTENSION OF ELIGI-**
4 **BILITY FOR WORKING FAMILIES.**

5 Subsection (f) of section 1925 (42 U.S.C. 1396r-6)
6 is repealed.

7 **SEC. 5150. EXTENSION OF MORATORIUM ON TREATMENT**
8 **OF CERTAIN FACILITIES AS INSTITUTIONS**
9 **FOR MENTAL DISEASES.**

10 Effective as if included in the enactment of OBRA-
11 1989, section 6408(a)(3) of such Act is amended by strik-
12 ing “180 days” and all that follows and inserting “Decem-
13 ber 31, 1995.”.

14 **SEC. 5150A. TREATMENT OF CERTAIN CLINICS AS FEDER-**
15 **ALLY-QUALIFIED HEALTH CENTERS.**

16 (a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C.
17 1396d(l)(2)(B)), as amended by section 5158(c), is
18 amended—

19 (1) by striking “or” at the end of clause

20 (ii)(II),

21 (2) by adding “or” at the end of clause (iii),

22 and

23 (3) by inserting after clause (iii) the following

24 new clause:

1 “(iv) was treated by the Secretary, for purposes
2 of part B of title XVIII, as a comprehensive Feder-
3 ally funded health center as of January 1, 1990;”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply to calendar quarters beginning
6 on or after July 1, 1993.

7 **SEC. 5150B. NURSING HOME REFORM.**

8 (a) SUSPENSION OF DECERTIFICATION OF NURSE
9 AIDE TRAINING AND COMPETENCY EVALUATION PRO-
10 GRAMS BASED ON EXTENDED SURVEYS.—

11 (1) IN GENERAL.—Section
12 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C.
13 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the
14 semicolon and inserting the following: “, unless the
15 survey shows that the facility is in compliance with
16 the requirements of subsections (b), (c), and (d) of
17 this section;”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by paragraph (1) shall take effect as included in the
20 enactment of OBRA-1990.

21 (b) REQUIREMENTS FOR CONSULTANTS CONDUCT-
22 ING REVIEWS OF USE OF DRUGS.—

23 (1) IN GENERAL.—Section 1919(c)(1)(D) (42
24 U.S.C. 1396r(c)(1)(D)) is amended by adding at the
25 end the following sentence: “In determining whether

1 such a consultant is qualified to conduct reviews
2 under the previous sentence, the Secretary shall take
3 into account the needs of nursing facilities under
4 this title to have access to the services of such a con-
5 sultant on a timely basis.”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by paragraph (1) shall take effect as included in the
8 enactment of OBRA-1987.

9 (c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR
10 SEPARATE DEPOSIT OF PERSONAL FUNDS.—

11 (1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42
12 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking
13 “\$50” and inserting “\$100”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall take effect October 1, 1993.

16 (d) DUE PROCESS PROTECTIONS FOR NURSE
17 AIDES.—

18 (1) PROHIBITING STATE FROM INCLUDING UN-
19 DOCUMENTED ALLEGATIONS IN NURSE AIDE REG-
20 ISTRY.—Section 1919(e)(2)(B) (42 U.S.C.
21 1396r(e)(2)(B)) is amended by striking the period at
22 the end of the first sentence and inserting the fol-
23 lowing: “, but shall not include any allegations of
24 resident abuse or neglect or misappropriation of

1 resident property that are not specifically docu-
2 mented by the State under such subsection.”.

3 (2) DUE PROCESS REQUIREMENTS FOR REBUT-
4 TING ALLEGATIONS.—Section 1919(g)(1)(C) (42
5 U.S.C. 1396r(g)(1)(C)) is amended by striking the
6 second sentence and inserting the following: “The
7 State shall, after providing the individual involved
8 with a written notice of the allegations (including a
9 statement of the availability of a hearing for the in-
10 dividual to rebut the allegations) and the oppor-
11 tunity for a hearing on the record, make a written
12 finding as to the accuracy of the allegations.”.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall take effect October 1, 1993.

15 **Subchapter C—Miscellaneous and Technical**
16 **Corrections Relating to OBRA-1990**

17 **SEC. 5151. EFFECTIVE DATE.**

18 Except as otherwise provided, the amendments made
19 by this subchapter shall take effect as if included in the
20 enactment of OBRA-1990.

21 **SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (EN-**
22 **ROLLMENT UNDER GROUP HEALTH PLANS).**

23 Section 4402(b) of OBRA-1990 is amended by strik-
24 ing “1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))”

1 and inserting “1903(u)(1)(D)(iv) (42 U.S.C.
2 1396b(u)(1)(D)(iv))”.

3 **SEC. 5153. CORRECTIONS RELATING TO SECTION 4501**
4 **(LOW-INCOME MEDICARE BENEFICIARIES).**

5 (a) Section 1902(a)(10)(E)(iii), as added by section
6 4501(b)(3) of OBRA–1990, is amended by striking “cost
7 sharing” and inserting “cost-sharing”.

8 (b) Section 1905(p)(4)(B), as amended by section
9 4501(c)(1) of OBRA–1990, is amended by striking
10 “1902(a)(10)(E)(iii)” and inserting “section
11 1902(a)(10)(E)(iii)”.

12 **SEC. 5154. CORRECTIONS RELATING TO SECTION 4601**
13 **(CHILD HEALTH).**

14 (a) Section 1902(a)(10)(A)(i)(VII), as added by sec-
15 tion 4601(a)(10)(A)(iii) of OBRA–1990, is amended by
16 striking “family;” and inserting “family; and”.

17 (b) Section 1902(l), as amended by section
18 4601(a)(1)(C) of OBRA–1990, is amended—

19 (1) in paragraph (1)(C), by striking “children”
20 after “(C)”;

21 (2) in paragraph (3), by striking
22 “(a)(10)(A)(i)(VII),,” and inserting
23 “(a)(10)(A)(i)(VII),”; and

24 (3) in paragraph (4)(B), by inserting a comma
25 before “(a)(10)(A)(i)(VI),”.

1 (c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section
2 1925, as amended by section 4601(a) of OBRA-1990, are
3 each amended by striking “(i)(VI)” and inserting
4 “(i)(VI),”.

5 **SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUT-**
6 **REACH LOCATIONS).**

7 (a) Section 1902(a)(55), as added by section
8 4602(a)(3) of OBRA-1990, is amended—

9 (1) in the matter preceding subparagraph (A)—

10 (A) by striking “subsection” and inserting
11 “paragraph”, and

12 (B) by striking “(a)” each place it ap-
13 pears; and

14 (2) in subparagraph (A), by striking
15 “1905(1)(2)(B)” and inserting “1905(l)(2)(B)”.

16 (b) Section 1902(l)(1) is amended by striking “who
17 are not described in any of subclauses (I) through (III)
18 of subsection (a)(10)(A)(i) and”.

19 **SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAY-**
20 **MENT FOR HOSPITAL SERVICES FOR CHIL-**
21 **DREN UNDER 6 YEARS OF AGE).**

22 (a) Section 1902(a)(10) is amended in clause (X) in
23 the matter following subparagraph (F) by striking “under
24 one year of age” and inserting “under 6 years of age”.

1 (b) Section 1902(s), as added by section 4604(a) of
2 OBRA-1990, is amended to read as follows:

3 “(s) In order to meet the requirements of subsection
4 (a)(56), the State plan must provide that payments to hos-
5 pitals under the plan for inpatient services furnished to
6 infants who have not attained the age of 1 year (or, in
7 the case of such an individual who is an inpatient on his
8 first birthday, until such individual is discharged) shall—

9 “(1) if made on a prospective basis (whether
10 per diem, per case, or otherwise) provide for an
11 outlier adjustment in payment amounts for medi-
12 cally necessary inpatient hospital services involving
13 exceptionally high costs or exceptionally long lengths
14 of stay;

15 “(2) not be limited by the imposition of day
16 limits; and

17 “(3) not be limited by the imposition of dollar
18 limits (other than dollar limits resulting from pro-
19 spective payments as adjusted pursuant to para-
20 graph (1)).”.

21 (c) Section 1923(a)(2)(C) is amended by striking
22 “provided on or after July 1, 1989,” and all that follows
23 and inserting the following: “involving exceptionally high
24 costs or exceptionally long lengths of stay—

1 “(i) for individuals under 1 year of age, in the
2 case of services provided on or after July 1, 1989,
3 and on or before June 30, 1991; and

4 “(ii) for individuals under 6 years of age, in the
5 case of services provided on or after July 1, 1991.”.

6 **SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAY-**
7 **MENT ADJUSTMENTS FOR DISPROPORTION-**
8 **ATE SHARE HOSPITALS).**

9 (a) Section 1923(c) is amended—

10 (1) in paragraph (2), by striking “paragraph
11 (b)(3)” and inserting “subsection (b)(3)”;

12 (2) by striking the period at the end of para-
13 graph (3)(B) and inserting a comma; and

14 (3) in the third sentence, by striking “the pay-
15 ment adjustment described in paragraph (2)” and
16 inserting “a payment adjustment described in para-
17 graph (2) or (3)”.

18 (b) Effective December 22, 1987, section
19 1923(d)(2)(A)(ii) is amended by striking “the date of the
20 enactment of this Act” and inserting “December 22,
21 1987”.

22 (c) Section 4703(d) of OBRA-1990 is amended by
23 striking “412(a)(2)” and inserting “4112(a)(2)”.

1 **SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FED-**
2 **ERALLY-QUALIFIED HEALTH CENTERS).**

3 (a) Clause (ix) of section 1903(m)(2)(A), as added
4 by section 4704(b)(1)(C) of OBRA-1990, is amended—

5 (1) by striking “of such center” the first place
6 it appears;

7 (2) by striking “federally qualified” and insert-
8 ing “Federally-qualified”;

9 (3) by inserting “section” before
10 “1905(a)(2)(C)”; and

11 (4) by moving such clause 2 ems to the left.

12 (b) Section 1903(m)(2)(B), as amended by section
13 4704(b)(2) of OBRA-1990, is amended by striking “ex-
14 cept with respect to clause (ix) of subparagraph (A),” and
15 inserting “(except with respect to clause (ix) of such sub-
16 paragraph)”.

17 (c) Section 1905(l)(2), as amended by section
18 4704(c) of OBRA-1990, is amended—

19 (1) in subparagraph (A)—

20 (A) by striking “Federally-qualified” and
21 inserting “Federally-qualified”, and

22 (B) by striking “an patient” and inserting
23 “a patient”; and

24 (2) in subparagraph (B)—

25 (A) in the matter preceding clause (i), by
26 striking “a entity” and inserting “an entity”,

1 (B) by striking “or” at the end of clause

2 (i),

3 (C) by striking the semicolon at the end of

4 clause (ii)(II) and inserting “, or”,

5 (D) by moving clause (ii) 4 ems to the left,

6 and

7 (E) in the last sentence, by striking

8 “clause (ii)” and inserting “clause (iii)”.

9 **SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUB-**
10 **STITUTE PHYSICIANS).**

11 Section 1902(a)(32)(C), as added by section
12 4708(a)(3) of OBRA-1990, is amended to read as follows:

13 “(C) payment may be made to a physician
14 for physicians’ services (and services furnished
15 incident to such services) furnished by a second
16 physician to patients of the first physician if (i)
17 the first physician is unavailable to provide the
18 services; (ii) the services are furnished pursuant
19 to an arrangement between the two physicians
20 that (I) is informal and reciprocal, or (II) in-
21 volves per diem or other fee-for-time compensa-
22 tion for such services; (iii) the services are not
23 provided by the second physician over a contin-
24 uous period of more than 60 days; and (iv) the
25 claim form submitted to the carrier for such

1 services includes the second physician's unique
2 identifier (provided under the system estab-
3 lished under subsection (x)) and indicates that
4 the claim meets the requirements of this clause
5 for payment to the first physician.”.

6 **SEC. 5160. CORRECTIONS RELATING TO SECTION 4711**
7 **(HOME AND COMMUNITY CARE FOR FRAIL**
8 **ELDERLY).**

9 (a) Section 1929, as added by section 4711(b) of
10 OBRA-1990, is amended—

11 (1) in subsection (c)(2)(F), by moving the sec-
12 ond sentence 2 ems to the right;

13 (2) in subsection (d)(2)(F)(ii), by striking “they
14 manage” and inserting “it manages”;

15 (3) in subsection (d)(2)(F)(iii), by inserting
16 “the agency or organization” after “(iii)”;

17 (4) in subsection (e)(2)(B), by striking “fiscal
18 year 1989” and inserting “fiscal year 1990”;

19 (5) in subsection (f)(1), by striking “Commu-
20 nity care” and inserting “community care”;

21 (6) in subsection (g)(1)—

22 (A) by striking “SETTINGS” and inserting
23 “SETTING”, and

24 (B) in subparagraph (B), by striking “set-
25 ting.” and inserting “setting in which home and

1 community care under this section is pro-
2 vided.”;

3 (7) in subsection (g)(2), by striking “commu-
4 nity care” the second, third, and fourth places it ap-
5 pears and inserting “home and community care”;

6 (8) in subsection (h)(1)—

7 (A) by striking “more than 8” each place
8 it appears and inserting “8 or more”, and

9 (B) in subparagraph (B), by inserting
10 “(other than merely board)” after “personal
11 services”;

12 (9) in subsection (h)(2), by striking “commu-
13 nity care” the second and third places it appears
14 and inserting “home and community care”;

15 (10) in subsection (j)(1)—

16 (A) in subparagraph (B)(ii), by striking
17 “1990” and inserting “1991”, and

18 (B) by adding at the end the following new
19 subparagraph:

20 “(C) APPLICABILITY TO COMMUNITY CARE
21 SETTINGS.—Subparagraphs (A) and (B) shall
22 apply to community care settings in the same
23 manner as such subparagraphs apply to provid-
24 ers of home or community care.”;

1 (11) in subsection (j)(2), by adding at the end
2 the following new subparagraph:

3 “(D) APPLICABILITY TO COMMUNITY CARE
4 SETTINGS.—Subparagraphs (A), (B), and (C)
5 shall apply to community care settings in the
6 same manner as such subparagraphs apply to
7 providers of home or community care.”;

8 (12) in subsection (k)(1)(A)(i)—

9 (A) by striking “(d)(2)(E)” and inserting
10 “(d)(2)”, and

11 (B) by striking “settings,” and inserting
12 “settings),”;

13 (13) in subsection (l), by striking “State wide-
14 ness” and inserting “Statewideness”;

15 (14) in subsection (m)—

16 (A) in paragraph (2), by striking “Individ-
17 ual Community Care Plan” and inserting “indi-
18 vidual community care plan”,

19 (B) in paragraph (3), by striking “and
20 need for services” and inserting “need for serv-
21 ices, and income”,

22 (C) in the second sentence in paragraph
23 (4), by striking “elderly individuals” and all
24 that follows and inserting “individuals receiving
25 home and community care under this section

1 who reside in such State in relation to the total
2 number of individuals receiving home and com-
3 munity care under this section.”, and

4 (D) by adding at the end the following new
5 paragraph:

6 “(5) NOTICE TO STATES OF AMOUNTS AVAIL-
7 ABLE FOR ASSISTANCE.—

8 “(A) NOTICE TO SECRETARY.—In order to
9 receive Federal medical assistance for expendi-
10 tures for home and community care under this
11 section for a fiscal year (beginning with fiscal
12 year 1994), a State shall submit a notice to the
13 Secretary of its intention to provide such care
14 under this section not later than 3 months be-
15 fore the beginning of the fiscal year.

16 “(B) NOTICE TO STATES.—Not later than
17 2 months before the beginning of each fiscal
18 year (beginning with fiscal year 1994), the Sec-
19 retary shall notify each State that has submit-
20 ted a notice to the Secretary under subpara-
21 graph (A) for the fiscal year of the amount of
22 Federal medical assistance that will be available
23 to the State for the fiscal year (as established
24 under paragraph (4)).”; and

1 (15) by adding at the end the following new
2 subsection:

3 “(n) COMMUNITY CARE SETTING DEFINED.—In this
4 section, the term ‘community care setting’ means a small
5 community care setting (as defined in subsection (g)(1))
6 or a large community care setting (as defined in sub-
7 section (h)(1)).”.

8 (b) Section 1905(r)(5) is amended by striking
9 “1905(a)” and inserting “subsection (a) (other than serv-
10 ices described in paragraph (22) or (23) of such sub-
11 section)”.

12 (c) Section 4711(f) of OBRA–1990 is amended by
13 striking “Act” each place it appears and inserting “sec-
14 tion”.

15 **SEC. 5161. CORRECTIONS RELATING TO SECTION 4712**
16 **(COMMUNITY SUPPORTED LIVING ARRANGE-**
17 **MENTS SERVICES).**

18 (a) Section 1930, as added by section 4712(b)(2) of
19 OBRA–1990, is amended—

20 (1) in subsection (b)—

21 (A) by striking “title the term,” and in-
22 serting “title, the term”,

23 (B) by striking “guardian” and inserting
24 “guardian or”, and

1 (C) by striking “3 other” and inserting
2 “3”;

3 (2) in subsection (d)—

4 (A) in the matter preceding paragraph (1),
5 by striking “program,” and inserting “pro-
6 gram”, and

7 (B) in the second sentence, by striking
8 “plan” each place it appears and inserting
9 “program”; and

10 (3) in subsection (i), by striking “FUNDS” and
11 inserting “FUNDS”.

12 (b) Section 4712(c) of OBRA-1990 is amended—

13 (1) in paragraph (1), by inserting “of section
14 1930 of the Social Security Act” after “subsection
15 (h)”; and

16 (2) in paragraph (2), by striking “this section”
17 and inserting “such section”.

18 **SEC. 5162. CORRECTION RELATING TO SECTION 4713**

19 **(COBRA CONTINUATION COVERAGE).**

20 (a) Section 1902(a)(10) is amended in the matter fol-
21 lowing subparagraph (F)—

22 (1) by striking “; and (XI)” and inserting “,
23 (XI)”;

24 (2) by striking “individuals, and (XI)” and in-
25 serting “individuals, and (XII)”;

1 (3) by striking “COBRA continuation pre-
2 miums” and inserting “COBRA premiums”.

3 (b) Section 1902(u)(3), as added by section
4 4713(a)(2) of OBRA-1990, is amended by striking “title
5 VI” and inserting “part 6 of subtitle B of title I”.

6 **SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MED-**
7 **ICAID TRANSITION FOR FAMILY ASSIST-**
8 **ANCE).**

9 Section 4716(a) of OBRA-1990 is amended by strik-
10 ing “AMENDMENTS.—Subsection (f) of section” and in-
11 serting “IN GENERAL.—Section”.

12 **SEC. 5164. CORRECTIONS RELATING TO SECTION 4723**
13 **(MEDICAID SPENDDOWN OPTION).**

14 Section 1903(f)(2), as amended by section 4723(a)
15 of OBRA-1990, is amended—

16 (1) by striking “(A)” after “(2)”;

17 (2) by striking “or, (B)” and inserting “. There
18 shall also be excluded,”;

19 (3) by striking “to the State, provided that”
20 and inserting “to the State if”; and

21 (4) by striking “pursuant to this subpara-
22 graph.” and inserting “pursuant to the previous sen-
23 tence”.

1 **SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OP-**
2 **TIONAL STATE DISABILITY DETERMINA-**
3 **TIONS).**

4 Section 1902(v), as added by section 4724 of OBRA-
5 1990, is amended—

6 (1) by striking “(v)(1)” and inserting “(v)”;

7 and

8 (2) by striking “of the Social Security Act”.

9 **SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPE-**
10 **CIAL RULES FOR HEALTH MAINTENANCE OR-**
11 **GANIZATIONS).**

12 Section 1903(m)(2)(F)(i), as amended by section
13 4732(b)(2)(B) of OBRA-1990, is amended by striking
14 “or” before “with an eligible organization”.

15 **SEC. 5167. CORRECTIONS RELATING TO SECTION 4741**
16 **(HOME AND COMMUNITY-BASED WAIVERS).**

17 The first sentence of section 1915(d)(3) is amended
18 by striking the period at the end and inserting the follow-
19 ing: “, and a waiver of the requirements of section
20 1902(a)(23) (relating to choice of providers) insofar as
21 such requirements relate to the provision of case manage-
22 ment services and the State provides assurances satisfac-
23 tory to the Secretary that a waiver of such requirements
24 will not substantially limit access to such services).”

1 **SEC. 5168. CORRECTIONS RELATING TO SECTION 4744**
2 **(FRAIL ELDERLY WAIVERS).**

3 (a) Section 1924(a)(5), as added by section
4 4744(b)(1) of OBRA–1990, is amended by striking
5 “1986.” and inserting “1986 or a waiver under section
6 603(c) of the Social Security Amendments of 1983.”.

7 (b) Section 603(c) of the Social Security Amend-
8 ments of 1983 is amended—

9 (1) by striking “(c)” and inserting “(c)(1)”;

10 (2) by redesignating paragraphs (1) and (2) as
11 subparagraphs (A) and (B); and

12 (3) by adding at the end the following new
13 paragraph:

14 “(2) Section 1924 of the Social Security Act shall
15 apply to any individual receiving services from an organi-
16 zation receiving a waiver under this subsection.”.

17 **SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COV-**
18 **ERAGE OF HIV-POSITIVE INDIVIDUALS).**

19 Section 4747 of OBRA–1990 is amended—

20 (1) in subsection (a), by striking “subsection
21 (c)” and inserting “subsection (b)”;

22 (2) in subsection (b)(2)—

23 (A) by striking “preventative” each place it
24 appears and inserting “preventive”, and

25 (B) by adding a period at the end of sub-
26 paragraph (J);

1 (3) in subsection (c)(1)—

2 (A) by striking “subsection (c)” and in-
3 serting “subsection (b)”, and

4 (B) by striking “paragraphs (1) and (2)
5 of’; and

6 (4) in subsection (d)—

7 (A) by striking “paragraph (3)” and in-
8 serting “subsection (b)”, and

9 (B) by striking “paragraph (1)” and in-
10 serting “subsection (a)”.

11 **SEC. 5170. CORRECTION RELATING TO SECTION 4751 (AD-**
12 **VANCE DIRECTIVES).**

13 Section 1903(m)(1)(A), as amended by section
14 4751(b)(1) of OBRA–1990, is amended—

15 (1) by striking “1902(w)” and inserting
16 “1902(w) and”; and

17 (2) by striking “1902(a)” and inserting
18 “1902(w)”.

19 **SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHY-**
20 **SICIANS’ SERVICES).**

21 (a) The paragraph (58) of section 1902(a) added by
22 section 4752(c)(1)(C) of OBRA–1990 is amended by
23 striking “subsection (v)” and inserting “subsection (x)”.

1 (b) Subparagraphs (A) and (B) of the paragraph (14)
2 of section 1903(i) added by section 4752(e)(2) of OBRA-
3 1990 are each amended—

4 (1) by striking “or” at the end of clause (v);

5 (2) by redesignating clause (vi) as clause (vii);

6 and

7 (3) by inserting after clause (v) the following
8 new clause:

9 “(vi) delivers such services in the
10 emergency department of a hospital par-
11 ticipating in the state plan approved under
12 this title, or”.

13 **SEC. 5172. CORRECTIONS RELATING TO SECTION 4801**
14 **(NURSING HOME REFORM).**

15 (a) Section 1919(b)(3)(C)(i)(I), as amended by sec-
16 tion 4801(e)(3) of OBRA-1990, is amended by striking
17 “no later than” before “not to exceed 14 days”.

18 (b) Section 1919(b)(5)(D), as amended by section
19 4801(a)(4) of OBRA-1990, is amended by striking the
20 comma before “or a new competency evaluation pro-
21 gram.”.

22 (c) Section 1919(b)(5)(G) is amended by striking “or
23 licensed or certified social worker” and inserting “licensed
24 or certified social worker, registered respiratory therapist,
25 or certified respiratory therapy technician”.

1 (d) Section 1919(f)(2)(B)(i) is amended by striking
2 “facilities,” and inserting “facilities (subject to clause
3 (iii)),”.

4 (e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by
5 striking “clauses” each place it appears and inserting
6 “clause”.

7 (f) Section 1919(g)(5)(B) is amended by striking
8 “paragraphs” and inserting “paragraph”.

9 (g) Section 4801(a)(6)(B) of OBRA-1990 is amend-
10 ed—

11 (1) by striking “The amendments” and insert-
12 ing “(i) The amendments”;

13 (2) by redesignating clauses (i) through (v) as
14 subclauses (I) through (V); and

15 (3) by adding at the end the following new
16 clause:

17 “(ii) Notwithstanding clause (i) and sub-
18 ject to section 1919(f)(2)(B)(iii) of the Social
19 Security Act (as amended by subparagraph
20 (A)), a State may approve a training and com-
21 petency evaluation program or a competency
22 evaluation program offered by or in a nursing
23 facility described in clause (i) if, during the pre-
24 vious 2 years, none of the subclauses of clause
25 (i) applied to the facility.”.

1 **SEC. 5173. OTHER TECHNICAL CORRECTIONS.**

2 (a) Section 1905(o)(1)(A) is amended—

3 (1) in the first sentence, by striking “intermedi-
4 ate care facility services” and inserting “for nursing
5 facility services or intermediate care facility services
6 for the mentally retarded”; and

7 (2) in the second sentence, by striking “or in-
8 termediate care facility” and inserting “(for pur-
9 poses of title XVIII), a nursing facility, or an inter-
10 mediate care facility for the mentally retarded”.

11 (b) Section 1915(d) is amended—

12 (1) by striking “skilled nursing facility or inter-
13 mediate care facility” each place it appears in para-
14 graphs (1), (2)(B), and (2)(C) and inserting “nurs-
15 ing facility”;

16 (2) in paragraph (2)(B)(i), by striking “skilled
17 nursing or intermediate care facility” and inserting
18 “nursing facility”;

19 (3) in paragraph (5)(A), by striking “under”
20 the second place it appears and inserting “(or, in the
21 case of waiver years beginning on or after October
22 1, 1990, with respect to nursing facility services and
23 home and community-based services) under”; and

24 (4) in paragraph (5)(B)—

25 (A) in clause (i), by striking “furnished”
26 and inserting “(or, with respect to waiver years

1 beginning on or after October 1, 1990, for
2 nursing facility services) furnished”; and

3 (B) in clause (iii)(I), by striking “(regard-
4 less” and inserting “(or, with respect to waiver
5 years beginning on or after October 1, 1990,
6 which comprise nursing facility services) (re-
7 gardless”.

8 **SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PRO-**
9 **VISIONS.**

10 (a) PARAGRAPHS ADDED TO SECTION 1902(a).—

11 Section 1902(a) is amended—

12 (1) by striking “and” at the end of paragraph
13 (54);

14 (2) in the paragraph (55) inserted by section
15 4602(a)(3) of OBRA–1990, by striking the period at
16 the end and inserting a semicolon;

17 (3) by redesignating the paragraph (55) in-
18 serted by section 4604(b)(3) of OBRA–1990 as
19 paragraph (56), by transferring and inserting it
20 after the paragraph (55) inserted by section
21 4602(a)(3) of such Act, and by striking the period
22 at the end and inserting a semicolon;

23 (4) by placing paragraphs (57) and (58), in-
24 serted by section 4751(a)(1)(C) of OBRA–1990, im-

1 mediately after paragraph (56), as redesignated by
2 paragraph (3);

3 (5) in the paragraph (58) inserted by section
4 4751(a)(1)(C) of OBRA-1990, by striking the pe-
5 riod at the end and inserting “; and”; and

6 (6) by redesignating the paragraph (58) in-
7 serted by section 4752(c)(1)(C) of OBRA-1990 as
8 paragraph (59) and by transferring and inserting it
9 after the paragraph (58) inserted by section
10 4751(a)(1)(C) of such Act.

11 (b) PARAGRAPHS ADDED TO SECTION 1903(i).—Sec-
12 tion 1903(i), as amended by section 2(b)(2) of the Medic-
13 aid Voluntary Contribution and Provider-Specific Tax
14 Amendments of 1991, is amended—

15 (1) in the paragraph (10) inserted by section
16 4401(a)(1)(B) of OBRA-1990, by striking all that
17 follows “1927(g)” and inserting a semicolon;

18 (2) by redesignating the paragraph (12) in-
19 serted by section 4752(a)(2) of OBRA-1990 as
20 paragraph (11), by transferring and inserting it
21 after the paragraph (10) inserted by section
22 4401(a)(1)(B) of OBRA-1990, and by striking the
23 period at the end and inserting a semicolon;

24 (3) by redesignating the paragraph (14) in-
25 serted by section 4752(e) of OBRA-1990 as para-

1 graph (12), by transferring and inserting it after
2 paragraph (11), as redesignated by paragraph (2),
3 and by striking the period at the end and inserting
4 “; or”; and

5 (4) by redesignating the paragraph (11) in-
6 serted by section 4801(e)(16)(A) of OBRA-1990 as
7 paragraph (13) and by transferring and inserting it
8 after paragraph (12), as redesignated by paragraph
9 (3).

10 (c) PARAGRAPHS ADDED TO SECTION 1905(a).—

11 (1) IN GENERAL.—Section 1905(a) is amend-
12 ed—

13 (A) by striking “and” at the end of para-
14 graph (21);

15 (B) in paragraph (24), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (C) by redesignating paragraphs (22),
18 (23), and (24) as paragraphs (24), (22), and
19 (23), respectively, and by transferring and in-
20 serting paragraph (24) after paragraph (23), as
21 so redesignated.

22 (2) CONFORMING AMENDMENTS.—(A) Effective
23 July 1, 1991, section 1902(a)(10)(C)(iv), as amend-
24 ed by section 4755(c)(1)(A) of OBRA-1990, is

1 amended by striking “through (21)” and inserting
2 “through (23)”.

3 (B) Effective July 1, 1991, section 1902(j), as
4 amended by section 4711(d)(1) of OBRA–1990, is
5 amended by striking “through (22)” and inserting
6 “through (24)”.

7 (d) FINAL SECTIONS.—Section 1928, as redesignated
8 by section 4401(a)(3) of OBRA–1990, is amended—

9 (1) by transferring such section to the end of
10 title XIX of the Social Security Act; and

11 (2) by redesignating such section as section
12 1931.

13 **CHAPTER 2—UNIVERSAL ACCESS TO**
14 **CHILDHOOD IMMUNIZATIONS**

15 **SEC. 5181. ESTABLISHMENT OF ENTITLEMENT AND MON-**
16 **ITORING PROGRAMS WITH RESPECT TO**
17 **CHILDHOOD IMMUNIZATIONS.**

18 (a) IN GENERAL.—Title XXI of the Public Health
19 Service Act (42 U.S.C. 300aa–1 et seq.) is amended by
20 adding at the end the following subtitle:

1 **“Subtitle 3—Entitlement and Mon-**
2 **itoring Programs With Respect**
3 **to Childhood Immunizations**

4 **“PART A—ENTITLEMENT PROGRAM**

5 **“SEC. 2151. DELIVERY TO STATES OF SUFFICIENT QUAN-**
6 **TITIES OF PEDIATRIC VACCINES.**

7 “(a) IN GENERAL.—In the case of any State that
8 submits to the Secretary an application in accordance with
9 section 2157, the Secretary, acting through the Director
10 of the Centers for Disease Control and Prevention, shall
11 provide for the purchase and delivery on behalf of the
12 State of such quantities of pediatric vaccines as may be
13 necessary for the immunization of each eligible child in
14 the State. The preceding sentence is subject to sections
15 2152(d) and 2159(a).

16 “(b) ELIGIBLE CHILDREN.—For purposes of this
17 part, the term ‘eligible child’ means an individual 18 years
18 of age or younger who—

19 “(1) with respect to the State involved, is enti-
20 tled to medical assistance under the plan approved
21 for the State under title XIX of the Social Security
22 Act (including a State operating under a statewide
23 waiver under section 1115 of such Act);

24 “(2)(A) is uninsured with respect to health in-
25 surance policies or plans (including group health

1 plans or prepaid health plans and including em-
2 ployee welfare benefit plans under the Employee Re-
3 tirement Income Security Act of 1974); or

4 “(B) is covered under such a policy or plan, but
5 under the policy or plan benefits are not available
6 with respect to immunizations; or

7 “(3) is an Indian.

8 **“SEC. 2152. ENTITLEMENTS.**

9 “(a) ENTITLEMENT OF STATES.—Subject to sub-
10 section (d), in the case of any State that submits to the
11 Secretary an application in accordance with section 2157,
12 the State is entitled to have the Secretary provide for the
13 purchase and delivery on behalf of the State of pediatric
14 vaccines under section 2151. The preceding sentence con-
15 stitutes budget authority in advance of appropriations
16 Acts, and represents the obligation of the Federal Govern-
17 ment to provide for the purchase and delivery to the State
18 of the vaccines.

19 “(b) ENTITLEMENTS OF CHILDREN AND HEALTH
20 CARE PROVIDERS.—Subject to subsection (d), the Sec-
21 retary may provide for the purchase and delivery of pedi-
22 atric vaccines under section 2151 on behalf of a State only
23 if the State agrees as follows:

24 “(1) Each eligible child in the State, in receiv-
25 ing an immunization with a pediatric vaccine from

1 a program-registered provider (as defined in section
2 2153(a)), is entitled to receive the immunization
3 without charge for the cost of such vaccine.

4 “(2) Each program-registered provider in the
5 State who administers a pediatric vaccine to an eligi-
6 ble child in the State is entitled to receive such vac-
7 cine from the State without charge.

8 “(3) The State will carry out a program to ad-
9 minister the entitlements established pursuant to
10 paragraphs (1) and (2).

11 “(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELI-
12 GIBLE CHILDREN.—With respect to the obligation of a
13 State under the entitlement established in subsection
14 (b)(2), an eligible child (or representative of the child)
15 may enforce the rights of the provider under such para-
16 graph if—

17 “(1) the provider administered a pediatric vac-
18 cine to the child notwithstanding the failure of the
19 State to carry out such obligation with respect to the
20 vaccine; or

21 “(2) an immunization with the vaccine was
22 sought for the child by a parent of the child, but the
23 provider, on the basis of such failure of the State,
24 did not administer the vaccine to the child.

25 “(d) CERTAIN CONDITIONS.—

1 “(1) IN GENERAL.—This part does not apply
2 with respect to any vaccine administered before Oc-
3 tober 1, 1994.

4 “(2) RELATIONSHIP TO PURCHASE CONTRACTS
5 WITH MANUFACTURERS.—With respect to a pedi-
6 atric vaccine, the obligation of the Federal Govern-
7 ment pursuant to subsection (a), and the obligations
8 of the State pursuant to subsection (b), are effective
9 only to the extent that there is in effect a contract
10 under section 2158 for the purchase and delivery of
11 the vaccine.

12 “(3) SUBMISSION OF APPLICATION.—

13 “(A) Subject to subparagraph (C), the en-
14 titlements established pursuant to subsections
15 (a) and (b) are established with respect to a
16 State upon the State submitting to the Sec-
17 retary an application in accordance with section
18 2157.

19 “(B) An application submitted to the Sec-
20 retary under section 2157 is deemed to have
21 been submitted in accordance with such section
22 unless the Secretary, not later than 30 days
23 after the date on which the application is sub-
24 mitted, notifies the State that the application is
25 not in accordance with such section.

1 “(C) In the case of a State whose applica-
2 tion submitted under section 2157 is not sub-
3 mitted in accordance with such section, the Sec-
4 retary may, upon the submission by the State
5 of an application that is in accordance with
6 such section, provide that the entitlements es-
7 tablished pursuant to such submission are
8 deemed to have been established on the date on
9 which the State first submitted the application.

10 **“SEC. 2153. VOLUNTARY PARTICIPATION OF HEALTH CARE**
11 **PROVIDERS.**

12 “(a) IN GENERAL.—

13 “(1) REQUEST FOR PARTICIPATION; REQUIRED
14 APPROVAL.—The Secretary may provide for the pur-
15 chase and delivery of pediatric vaccines under sec-
16 tion 2151 on behalf of a State only if the State
17 agrees that federally-supplied pediatric vaccines will
18 not be distributed to a health care provider unless—

19 “(A) the provider submits to the State a
20 written request to participate in the program
21 established by the State pursuant to section
22 2152(b)(3);

23 “(B) the request is in such form and is
24 made in such manner as the Secretary may
25 require; and

1 “(C) the provider makes the agreements
2 described in this section.

3 “(2) PROGRAM-REGISTERED PROVIDERS.—For
4 purposes of this part, the term ‘program-registered
5 provider’ means a health care provider that meets
6 the conditions specified in subparagraphs (A)
7 through (C) of paragraph (1).

8 “(b) ELIGIBILITY OF CHILDREN.—

9 “(1) IN GENERAL.—An agreement for a health
10 care provider under subsection (a) is that the pro-
11 vider—

12 “(A) before administering a pediatric vac-
13 cine to a child, will ask a parent of the child
14 such questions as are necessary to determine
15 whether the child is an eligible child;

16 “(B) will, for a period of time specified by
17 the Secretary, maintain records of responses
18 made to the questions; and

19 “(C) will, upon request, make such records
20 available to the State involved and to the Sec-
21 retary, subject to paragraph (2).

22 “(2) RESTRICTION ON USE OF INFORMATION.—
23 Records provided to a State or to the Secretary
24 under paragraph (1)(C) may be used only for pur-

1 poses of audit of the program carried out under sec-
2 tion 2152(b)(3) by the State.

3 “(c) CHARGES FOR VACCINES.—

4 “(1) VACCINES PER SE.—An agreement for a
5 health care provider under subsection (a) is that, in
6 administering a federally-supplied pediatric vaccine
7 to an eligible child, the provider will not impose a
8 charge for the cost of the vaccine.

9 “(2) ADMINISTRATION OF VACCINES.—With re-
10 spect to compliance with an agreement under para-
11 graph (1), a program-registered provider may im-
12 pose a charge for the administration of a federally-
13 supplied pediatric vaccine, subject to an agreement
14 by the provider that the provider will not impose
15 such charge with respect to a child if a parent of the
16 child certifies to the provider that the parent is un-
17 able to pay the charge.

18 “(d) RULES OF CONSTRUCTION.—

19 “(1) EXTENT OF PARTICIPATION.—This section
20 may not be construed as requiring that a program-
21 registered provider administer a federally-supplied
22 pediatric vaccine to each eligible child for whom an
23 immunization with the vaccine is sought from the
24 provider.

1 “(2) VERIFICATION OF INFORMATION.—With
2 respect to compliance with agreements under sub-
3 sections (b) and (c), such agreements may not be
4 construed as requiring a program-registered provider
5 to verify independently the information provided to
6 the provider by a parent pursuant to such sub-
7 sections.

8 **“SEC. 2154. INTRASTATE DISTRIBUTION OF PEDIATRIC VAC-**
9 **CINES.**

10 “(a) IN GENERAL.—Not later than 180 days after
11 the date of the enactment of the Omnibus Budget Rec-
12 onciliation Act of 1993, the Secretary shall, through publi-
13 cation in the Federal Register, establish criteria for the
14 delivery on behalf of the States of federally-supplied pedi-
15 atric vaccines to program-registered providers in the
16 State.

17 “(b) INVOLVEMENT OF CERTAIN PROVIDERS.—

18 “(1) IN GENERAL.—In establishing criteria
19 under subsection (a), the Secretary shall establish
20 criteria with respect to encouraging the entities de-
21 scribed in paragraph (2) to become program-reg-
22 istered providers.

23 “(2) RELEVANT PROVIDERS.—The entities re-
24 ferred to in paragraph (1) are—

25 “(A) private health care providers; and

1 “(B)(i) health care providers that receive
2 funds under title V of the Indian Health Care
3 Improvement Act;

4 “(ii) the Indian Health Service; and

5 “(iii) health programs or facilities operated
6 by Indian tribes or tribal organizations.

7 “(c) CULTURAL CONTEXT OF SERVICES.—In estab-
8 lishing criteria under subsection (a), the Secretary shall
9 require that, in providing a federally-supplied pediatric
10 vaccine to any population of eligible children a substantial
11 portion of whose parents have a limited ability to speak
12 the English language, a State have in effect a reasonable
13 plan to administer the vaccines through program-reg-
14 istered providers who are able to communicate with the
15 population involved in the language and cultural context
16 that is most appropriate.

17 “(d) COMPLIANCE BY STATES.—The Secretary may
18 provide for the purchase and delivery of pediatric vaccines
19 under section 2151 on behalf of a State only if the State
20 agrees to maintain compliance with the criteria established
21 under subsection (a).

22 **“SEC. 2155. GENERAL PROVISIONS.**

23 “(a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

24 “(1) ESTABLISHMENT OF STANDARDS.—Not
25 later than 180 days after the date of the enactment

1 of the Omnibus Budget Reconciliation Act of 1993,
2 the Secretary shall, through publication in the Fed-
3 eral Register, establish standards with respect to de-
4 termining the extent to which States and program-
5 registered providers are in compliance with the
6 agreements made under this part.

7 “(2) COMPLIANCE BY STATES.— The Secretary
8 may provide for the purchase and delivery of pedi-
9 atric vaccines under section 2151 on behalf of a
10 State only if the State agrees to maintain compli-
11 ance with the standards established under subsection
12 (a).

13 “(b) STATE MAINTENANCE OF IMMUNIZATION
14 LAWS.—The Secretary may provide for the purchase and
15 delivery of vaccines under section 2151 on behalf of a
16 State only if the State certifies to the Secretary that, if
17 it had in effect as of May 1, 1993, a law that requires
18 some or all health insurance policies or plans to provide
19 some coverage with respect to a pediatric vaccine, the
20 State has not modified or repealed such law in a manner
21 that reduces the amount of coverage so required.

22 “(c) PARTICIPATION IN NATIONAL MONITORING SYS-
23 TEM.—On and after January 1, 1998, the Secretary may
24 provide for the purchase and delivery of vaccines under
25 section 2151 on behalf of a State only if the State certifies

1 to the Secretary that the State is operating a registry in
2 accordance with part B.

3 **“SEC. 2156. STATE OPTION REGARDING IMMUNIZATION OF**
4 **ADDITIONAL CATEGORIES OF CHILDREN.**

5 “(a) STATE PURCHASES.—Subject to subsections (b)
6 and (c), for the purpose of administering a pediatric vac-
7 cine to children in addition to eligible children, any partici-
8 pating State under section 2151 may, pursuant to section
9 2158(a)(2), purchase the vaccine from a manufacturer of
10 the vaccine at the price in effect under section 2158.

11 “(b) REQUIREMENTS.—A State may purchase pedi-
12 atric vaccines pursuant to subsection (a) only if the follow-
13 ing conditions are met:

14 “(1) The State agrees that the vaccines will be
15 used to provide immunizations for children who are
16 not eligible children.

17 “(2) The State designates the particular cat-
18 egories of children who are to receive the immuniza-
19 tions, and submits to the Secretary a description of
20 the categories so designated.

21 “(3) The State provides to the Secretary such
22 information as the Secretary determines to be nec-
23 essary to provide for quantities of pediatric vaccines
24 for the State to purchase pursuant to section
25 2158(a)(2).

1 “(4) The State agrees, subject to subsection (c),
2 that the program established by the State pursuant
3 to section 2152(b)(3) applies to children designated
4 under paragraph (2) to the same extent and in the
5 same manner as the program applies to eligible chil-
6 dren (except for the State being the purchaser of the
7 pediatric vaccines involved).

8 “(c) CERTAIN LIMITATIONS.—A State may purchase
9 pediatric vaccines pursuant to subsection (a) only if the
10 State agrees as follows:

11 “(1) The authorization established in such sub-
12 section with respect to a pediatric vaccine is subject
13 to the quantity of the vaccine that, on behalf of the
14 State, the Secretary provides for under section
15 2158(a)(2).

16 “(2) In any case in which multiple contracts are
17 in effect under section 2158 with respect to such a
18 vaccine and the State elects to purchase the vaccine
19 pursuant to subsection (a), the Secretary will deter-
20 mine which of such contracts will be applicable to
21 the purchase.

22 **“SEC. 2157. STATE APPLICATION FOR VACCINES.**

23 “(a) IN GENERAL.—An application by a State for pe-
24 diatric vaccines under section 2151(a) is in accordance
25 with this section if the application—

1 “(1) is submitted not later than the date speci-
2 fied by the Secretary;

3 “(2) contains each agreement required in this
4 part (including the agreements required in section
5 2156, if the State is electing to purchase pediatric
6 vaccines pursuant to such section);

7 “(3) contains any information required in this
8 part to be submitted to the Secretary (including the
9 information required in section 2156, if the State is
10 electing to purchase pediatric vaccines pursuant to
11 such section);

12 “(4) contains the certification required in sub-
13 section (b) of section 2155 and, as applicable, the
14 certification required in subsection (c) of such sec-
15 tion; and

16 “(5) is in such form, is made in such manner,
17 and contains such agreements, assurances, and in-
18 formation as the Secretary determines to be nec-
19 essary to carry out this part.

20 “(b) FAILURE TO APPLY.—

21 “(1) IN GENERAL.—If, as of January 1, 1998,
22 a State is not receiving pediatric vaccines under sec-
23 tion 2151 and carrying out a program pursuant to
24 section 2152(b)(3), the Secretary shall, subject to

1 paragraph (2), terminate payments to the State
2 under part A of title XIX.

3 “(2) EXCEPTIONS.—Paragraph (1) does not
4 apply in the case of a State described in such para-
5 graph that—

6 “(A) is, through all willing health care pro-
7 viders, providing for the immunization of eligi-
8 ble children with pediatric vaccines, and is not
9 imposing a charge on such providers or children
10 for the costs of the vaccines; or

11 “(B) meets or exceeds the objectives estab-
12 lished by the Secretary for the year 2000 for
13 the immunization status of children in the
14 United States who are 2 years of age.

15 **“SEC. 2158. CONTRACTS WITH MANUFACTURERS OF PEDI-**
16 **ATRIC VACCINES.**

17 “(a) IN GENERAL.—Subject to the provisions of this
18 section, the Secretary shall periodically enter into negotia-
19 tions with manufacturers of pediatric vaccines for the pur-
20 pose of maintaining contracts under which—

21 “(1) the Secretary provides for the purchase of
22 quantities of pediatric vaccines necessary for carry-
23 ing out section 2151, and provides for the delivery
24 of the vaccines to participating States under such
25 section; and

1 “(2) each participating State, at the option of
2 the State under section 2156, is permitted to obtain
3 additional quantities of pediatric vaccines (subject to
4 limits in such contracts regarding quantities)
5 through purchasing the vaccines from the manufac-
6 turers at the price negotiated by the Secretary for
7 the quantities specified in paragraph (1).

8 The Secretary shall enter into the initial negotiations
9 under the preceding sentence not later than 180 days after
10 the date of the enactment of the Omnibus Budget
11 Reconciliation Act of 1993.

12 “(b) NEGOTIATION OF PURCHASE PRICE.—

13 “(1) IN GENERAL.—In negotiating the prices at
14 which pediatric vaccines will be purchased from a
15 manufacturer under subsection (a), the Secretary
16 shall negotiate a price that provides a reasonable
17 profit for the manufacturer.

18 “(2) CERTAIN FACTORS.—

19 “(A) In determining a reasonable profit for
20 a manufacturer under paragraph (1), the Sec-
21 retary shall consider the following factors:

22 “(i) The costs of the manufacturer in
23 researching, developing, and producing the
24 pediatric vaccine involved.

1 “(ii) The costs of the manufacturer in
2 researching and developing new or im-
3 proved vaccines (pediatric or otherwise).

4 “(iii) The costs of shipping and han-
5 dling pediatric vaccines in compliance with
6 the agreement under subsection (c).

7 “(iv) Such other factors as the Sec-
8 retary determines to be appropriate.

9 “(B) With respect to factors considered
10 under subparagraph (A), the Secretary may
11 enter into a contract under subsection (a) only
12 if the manufacturer involved provides to the
13 Secretary such information regarding the fac-
14 tors as the Secretary determines to be appro-
15 priate.

16 “(3) CONFIDENTIALITY.—With respect to infor-
17 mation provided to the Secretary by a manufacturer
18 under paragraph (2), the following applies:

19 “(A) The Secretary shall maintain the con-
20 fidentiality of the information, with provision
21 for reasonable disclosures.

22 “(B) For purposes of section 552(b)(4) of
23 title 5, United States Code, the information
24 shall be considered to be trade secrets and com-

1 merchial or financial information obtained from
2 a person and privileged or confidential.

3 “(C) Section 1905 of title 18, United
4 States Code, applies to information maintained
5 confidentially under subparagraph (A).

6 “(c) CHARGES FOR SHIPPING AND HANDLING.—The
7 Secretary may enter into a contract under subsection (a)
8 only if the manufacturer involved agrees that the manu-
9 facturer will provide for delivering the vaccines on behalf
10 of the States in accordance with the programs established
11 by the States pursuant to section 2152(b)(3), and will not
12 impose any charges for the costs of such delivery (except
13 to the extent such costs are provided for in the price nego-
14 tiated under subsection (b)).

15 “(d) QUANTITY OF VACCINES.—For the purpose of
16 ensuring that the Federal Government has the ability to
17 carry out section 2151, the Secretary, in negotiations
18 under subsection (a), shall negotiate for maintaining a
19 supply of pediatric vaccines to meet unanticipated needs
20 for the vaccines. For purposes of the preceding sentence,
21 the Secretary shall negotiate for a 6-month supply of vac-
22 cines in addition to the quantity that the Secretary other-
23 wise would provide for in such negotiations. In carrying
24 out this paragraph, the Secretary shall consider the poten-

1 tial for outbreaks of the diseases with respect to which
2 the vaccines have been developed.

3 “(e) NEGOTIATING AUTHORITY OF SECRETARY.—In
4 carrying out subsection (a), the Secretary, to the extent
5 determined by the Secretary to be appropriate, may enter
6 into contracts described in such subsection, may decline
7 to enter into such contracts, and with the consent of the
8 manufacturers involved, may modify such agreements and
9 may extend such agreements.

10 “(f) CERTAIN CONTRACT PROVISIONS.—

11 “(1) DURATION.—A contract entered into by
12 the Secretary under subsection (a) is effective for
13 such period as the Secretary and the manufacturer
14 involved may agree in the contract.

15 “(2) ADVANCE FUNDING.—The Secretary may,
16 pursuant to section 2152(a), enter into contracts
17 under subsection (a) under which the Federal Gov-
18 ernment is obligated to make outlays, the budget au-
19 thority for which is not provided for in advance in
20 appropriations Acts.

21 “(g) REPORTS TO SECRETARY.—The Secretary may
22 enter into a contract under subsection (a) only if the man-
23 ufacturer involved agrees to submit to the Secretary such
24 reports as the Secretary determines to be appropriate with
25 respect to compliance with the contract. For purposes of

1 paragraph (3) of subsection (b), such reports shall be con-
2 sidered to be information provided by the manufacturer
3 to the Secretary under paragraph (2) of such subsection.

4 “(h) MULTIPLE SUPPLIERS.—

5 “(1) IN GENERAL.—In the case of the pediatric
6 vaccine involved, the Secretary shall, as appropriate,
7 enter into a contract under subsection (a) with each
8 manufacturer of the vaccine that meets the terms
9 and conditions of the Secretary for an award of such
10 a contract (including terms and conditions regarding
11 safety, quality, and price).

12 “(2) RULE OF CONSTRUCTION.—With respect
13 to multiple contracts entered into pursuant to para-
14 graph (1), such paragraph may not be construed as
15 prohibiting the Secretary from having in effect dif-
16 ferent prices under each of such contracts.

17 **“SEC. 2159. CERTAIN ADMINISTRATIVE VARIATIONS.**

18 “(a) TRIBES AND TRIBAL ORGANIZATIONS.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the Secretary shall provide for the purchase and de-
21 livery on behalf of each Indian tribe and each tribal
22 organization of such quantities of pediatric vaccines
23 as may be necessary for the immunization of each
24 Indian child in the State in which the tribe or orga-
25 nization (as the case may be) is located.

1 “(2) ENTITLEMENTS; ADMINISTERING PRO-
2 GRAM.—The Secretary may provide for the purchase
3 and delivery of pediatric vaccines under paragraph
4 (1) on behalf of an Indian tribe or tribal organiza-
5 tion only if the tribe or organization (as the case
6 may be) agrees that this part applies to the tribe or
7 organization (in relation to Indian children) to the
8 same extent and in the manner as such part applies
9 to States (in relation to eligible children).

10 “(b) STATE AS MANUFACTURER.—

11 “(1) PAYMENTS IN LIEU OF VACCINES.—In the
12 case of a participating State under section 2151 that
13 manufactures a pediatric vaccine and is not receiv-
14 ing the vaccine under such section, if the Secretary
15 determines that the program of the State under
16 2152(b)(3) is carried out with respect to the vaccine,
17 the Secretary shall provide to the State an amount
18 equal to the value of the quantity of such vaccine
19 that otherwise would have been delivered to the
20 State under section 2151, subject to the provisions
21 of this subsection.

22 “(2) DETERMINATION OF VALUE.—In deter-
23 mining the amount to pay a State under paragraph
24 (1) with respect to a pediatric vaccine, the value of
25 the quantity of vaccine shall be determined on the

1 basis of the price in effect for the vaccine under con-
2 tracts under section 2158. If more than 1 such con-
3 tract is in effect, the Secretary shall determine such
4 value on the basis of the average of the prices under
5 the contracts, after weighting each such price in re-
6 lation to the quantity of vaccine under the contract
7 involved.

8 “(3) USE OF PAYMENTS.—A State may expend
9 payments received under paragraph (1) only for pur-
10 poses relating to pediatric vaccines.

11 **“SEC. 2160. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR**
12 **ADMINISTRATION.**

13 “(a) RECOMMENDED PEDIATRIC VACCINES.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish a list of the vaccines that the Secretary rec-
16 ommends for administration to all children for the
17 purpose of immunizing the children, subject to such
18 contraindications for particular medical categories of
19 children as the Secretary may establish under sub-
20 section (b)(1)(D). The Secretary shall periodically
21 review the list, and shall revise the list as appro-
22 priate.

23 “(2) RULE OF CONSTRUCTION.—

1 “(A) The list of vaccines specified in sub-
2 paragraph (B) is deemed to be the list of vac-
3 cines maintained under paragraph (1).

4 “(B) The list of vaccines specified in this
5 subparagraph is the list of vaccines that, for
6 purposes of paragraph (1), is established (and
7 periodically reviewed and as appropriate re-
8 vised) by the Advisory Committee on Immuni-
9 zation Practices, an advisory committee estab-
10 lished by the Secretary, acting through the Di-
11 rector of the Centers for Disease Control and
12 Prevention.

13 “(b) RECOMMENDED SCHEDULE FOR ADMINISTRA-
14 TION.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
16 in the case of a pediatric vaccine, the Secretary shall
17 establish (and periodically review and as appropriate
18 revise) a schedule of nonbinding recommendations
19 for the following:

20 “(A) The number of immunizations with
21 the vaccine that children should receive.

22 “(B) The ages at which children should re-
23 ceive the immunizations.

24 “(C) The dosage of vaccine that should be
25 administered in the immunizations.

1 “(D) Any contraindications regarding ad-
2 ministration of the vaccine to particular medical
3 categories of children.

4 “(E) Such other guidelines as the Sec-
5 retary determines to be appropriate with re-
6 spect to administering the vaccine to children.

7 “(2) VARIATIONS IN MEDICAL PRACTICE.—In
8 establishing and revising a schedule under para-
9 graph (1), the Secretary shall ensure that, in the
10 case of the pediatric vaccine involved, the schedule
11 provides for the full range of variations in medical
12 judgment regarding the administration of the vac-
13 cine, subject to remaining within medical norms.

14 “(3) RULE OF CONSTRUCTION.—

15 “(A) The schedule specified in subpara-
16 graph (B) is deemed to be the schedule main-
17 tained under paragraph (1).

18 “(B) The schedule specified in this sub-
19 paragraph is the schedule that, for purposes of
20 paragraph (1), is established (and periodically
21 reviewed and as appropriate revised) by the ad-
22 visory committee specified in subsection
23 (a)(2)(B).

24 “(c) GENERALLY APPLICABLE RULES OF CONSTRUC-
25 TION.—

1 “(1) IN GENERAL.—The list established under
2 subsection (a) and the schedules established under
3 subsection (b) do not constitute guidelines, stand-
4 ards, performance measures, or review criteria for
5 purposes of the program carried out by the Adminis-
6 trator for Health Care Policy and Research under
7 part B of title IX or under section 1142 of the
8 Social Security Act.

9 “(2) STATE LAWS.—This section does not su-
10 persede any State law on requirements with respect
11 to receiving immunizations (including any such law
12 relating to religious exemptions or medical exemp-
13 tions).

14 “(d) ISSUANCE OF LIST AND SCHEDULES.—Not later
15 than 180 days after the date of the enactment of the Om-
16 nibus Budget Reconciliation Act of 1993, the Secretary
17 shall establish the initial list required in subsection (a) and
18 the schedule required in subsection (b).

19 **“SEC. 2161. CHILDHOOD IMMUNIZATION TRUST FUND.**

20 “(a) ESTABLISHMENT OF FUND.—There is estab-
21 lished in the Treasury of the United States a fund to be
22 known as the National Childhood Immunization Trust
23 Fund (in this section referred to as the ‘Fund’). The Fund
24 shall consist of such amounts as may be appropriated to
25 the Fund in appropriations Acts, in the Internal Revenue

1 Code of 1986, or in subsection (c)(3). Amounts appro-
2 priated to the Fund shall remain available until expended.

3 “(b) EXPENDITURES FROM FUND.—Amounts in the
4 Fund are available to the Secretary for the purpose of car-
5 rying out this part. Payments under the program under
6 this part, and the costs of carrying out such program,
7 shall be exempt from reduction under any order issued
8 under part C of the Balanced Budget and Emergency
9 Deficit Control Act of 1985.

10 “(c) INVESTMENT.—

11 “(1) IN GENERAL.—The Secretary of the
12 Treasury shall invest such amounts of the Fund as
13 such Secretary determines are not required to meet
14 current withdrawals from the Fund. Such invest-
15 ments may be made only in interest-bearing obliga-
16 tions of the United States. For such purpose, such
17 obligations may be acquired on original issue at the
18 issue price, or by purchase of outstanding obliga-
19 tions at the market price.

20 “(2) SALE OF OBLIGATIONS.—Any obligation
21 acquired by the Fund may be sold by the Secretary
22 of the Treasury at the market price.

23 “(3) AVAILABILITY OF INCOME.—Any interest
24 derived from obligations acquired by the Fund, and

1 proceeds from any sale or redemption of such obliga-
2 tions, are hereby appropriated to the Fund.

3 **“SEC. 2162. DEFINITIONS.**

4 “For purposes of this subtitle:

5 “(1) The term ‘eligible child’ has the meaning
6 given such term in section 2151(b).

7 “(2) The term ‘federally-supplied’, with respect
8 to a pediatric vaccine, means that such vaccine is
9 purchased and delivered on behalf of a State under
10 section 2151(a).

11 “(3) The term ‘health care provider’, with re-
12 spect to the administration of vaccines to children,
13 means an entity that is licensed or otherwise author-
14 ized for such administration under the law of the
15 State in which the entity administers the vaccine,
16 subject to section 333(e).

17 “(4) The term ‘immunization’ means an immu-
18 nization against a vaccine-preventable disease.

19 “(5) Each of the terms ‘Indian’, ‘Indian tribe’,
20 and ‘tribal organization’ has the meaning given such
21 term in section 4 of the Indian Health Care
22 Improvement Act.

23 “(6) The term ‘Indian child’ means an Indian
24 who is 18 years of age or younger.

1 “(7) The term ‘manufacturer’ means any cor-
2 poration, organization, or institution, whether public
3 or private (including Federal, State, and local de-
4 partments, agencies, and instrumentalities), which
5 manufactures, imports, processes, or distributes
6 under its label any pediatric vaccine. The term
7 ‘manufacture’ means to manufacture, import, proc-
8 ess, or distribute a vaccine.

9 “(8) The term ‘parent’, with respect to a child,
10 means a legal guardian of the child.

11 “(9) The term ‘participating State under sec-
12 tion 2151’ means a State that has submitted to the
13 Secretary an application in accordance with section
14 2157.

15 “(10) The term ‘pediatric vaccine’ means a vac-
16 cine included on the list established under section
17 2160(a).

18 “(11) The term ‘program-registered provider’
19 has the meaning given such term in 2153(a)(2).

20 **“SEC. 2163. TERMINATION OF PROGRAM.**

21 This part shall cease to be in effect beginning on such
22 date as may be prescribed in Federal law providing for
23 immunization services for all children as part of a broad-
24 based reform of the national health care system.

1 “PART B—NATIONAL SYSTEM FOR MONITORING
2 IMMUNIZATION STATUS OF CHILDREN

3 **“SEC. 2171. FORMULA GRANTS FOR STATE REGISTRIES**
4 **WITH RESPECT TO MONITORING.**

5 “(a) IN GENERAL.—For the purpose described in
6 subsection (b), the Secretary, acting through the Director
7 of the Centers for Disease Control and Prevention, shall
8 make an allotment each fiscal year for each State in an
9 amount determined in accordance with section 2175. The
10 Secretary shall make a grant to the State of the allotment
11 made for the State for the fiscal year if the State submits
12 to the Secretary an application in accordance with section
13 2174.

14 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
15 make a grant under subsection (a) only if the State agrees
16 to expend the grant for the purpose of—

17 “(1) collecting the data described in section
18 2172;

19 “(2) operating registries to maintain the data
20 (and establishing such registries, in the case of a
21 State that is not operating such a registry);

22 “(3) utilizing the data to monitor the extent to
23 which children have received immunizations in ac-
24 cordance with the schedule established under section
25 2160(b);

1 “(4) notifying parents if children have not re-
2 ceived immunizations in accordance with such sched-
3 ule; and

4 “(5) such other activities as the Secretary may
5 authorize with respect to achieving the objectives es-
6 tablished by the Secretary for the year 2000 for the
7 immunization status of children in the United
8 States.

9 “(c) REQUIREMENT REGARDING STATE LAWS.—

10 “(1) IN GENERAL.—The Secretary may make a
11 grant under subsection (a) only if the State in-
12 volved—

13 “(A) provides assurances satisfactory to
14 the Secretary that, not later than October 1,
15 1996, the State will be operating a registry in
16 accordance with this part, including having in
17 effect such laws and regulations as may be nec-
18 essary to so operate such a registry; and

19 “(B) agrees that, prior to such date, the
20 State will make such efforts to operate a reg-
21 istry in accordance with this part as may be au-
22 thorized in the law and regulations of the State.

23 “(2) RULES OF CONSTRUCTION.—

24 “(A) With respect to the agreements made
25 by a State under this part, other than the

1 agreement under paragraph (1)(B), the Sec-
2 retary may require compliance with the agree-
3 ments only to the extent consistent with such
4 paragraph.

5 “(B) This part does not authorize the Sec-
6 retary, as a condition of the receipt of a grant
7 under subsection (a) by a State, to prohibit the
8 State from providing any parent, upon the re-
9 quest of the parent, with an exemption from the
10 requirements established by the State pursuant
11 to this part for the collection of data regarding
12 any child of the parent.

13 **“SEC. 2172. REGISTRY DATA.**

14 “(a) IN GENERAL.—For purposes of section
15 2171(b)(1), the data described in this section are the data
16 described in subsection (b) and the data described in sub-
17 section (c). This section applies to data regarding a child
18 without regard to whether the child is an eligible child as
19 defined in section 2162.

20 “(b) DATA REGARDING BIRTH OF CHILD.—With re-
21 spect to the birth of a child, the data described in this
22 subsection is as follows:

23 “(1) The name of each child born in the State
24 involved on or after October 1, 1993.

25 “(2) Demographic data on the child.

1 “(3) The name of one or both of the parents of
2 the child.

3 “(4) The address, as of the date of the birth of
4 the child, of each parent whose name is received in
5 the registry pursuant to paragraph (3).

6 “(c) DATA REGARDING INDIVIDUAL IMMUNIZA-
7 TIONS.—With respect to a child to whom a pediatric vac-
8 cine is administered in the State involved, the data de-
9 scribed in this subsection is as follows:

10 “(1) The name, age, and address of the child.

11 “(2) The date on which the vaccine was admin-
12 istered to the child.

13 “(3) The name and business address of the
14 health care provider that administered the vaccine.

15 “(4) The address of the facility at which the
16 vaccine was administered.

17 “(5) The name and address of one or both par-
18 ents of the child as of the date on which the vaccine
19 was administered, if such information is available to
20 the health care provider.

21 “(6) The type of vaccine.

22 “(7) The number or other information identify-
23 ing the particular manufacturing batch of the vac-
24 cine, if such information appears on the container or

1 packaging for the vaccine or is otherwise readily ac-
2 cessible to the health care provider.

3 “(8) The dosage of vaccine that was adminis-
4 tered.

5 “(9) A description of any adverse medical reac-
6 tions that the child experienced in relation to the
7 vaccine and of which the health care provider is
8 aware.

9 “(10) Any other contraindications noted by the
10 health care provider with respect to administration
11 of the vaccine to the child.

12 “(11) Such other data regarding immunizations
13 for the child, including identifying data, as the Sec-
14 retary may require consistent with applicable law
15 (including social security account numbers furnished
16 pursuant to section 205(c)(2)(E) of the Social
17 Security Act).

18 “(d) DATE CERTAIN FOR SUBMISSION TO REG-
19 ISTRY.—The Secretary may make a grant under section
20 2171 only if the State involved agrees to ensure that, with
21 respect to a child—

22 “(1) the data described in subsection (b) are
23 submitted to the registry under such section not
24 later than 6 weeks after the date on which the child
25 is born; and

1 “(2) the data described in subsection (c) with
2 respect to a vaccine are submitted to such registry
3 not later than 6 weeks after the date on which the
4 vaccine is administered to the child.

5 **“SEC. 2173. GENERAL PROVISIONS.**

6 “(a) FEDERAL STANDARDS ON CONFIDENTIALITY.—
7 The Secretary shall by regulation establish standards pro-
8 viding for maintaining the confidentiality of the identity
9 of individuals with respect to whom data are maintained
10 in registries under section 2171. Such standards shall,
11 with respect to a State, provide that the State is to have
12 in effect laws regarding such confidentiality, including ap-
13 propriate penalties for violation of the laws. The Secretary
14 may make a grant under such section only if the State
15 involved agrees to comply with the standards.

16 “(b) USE OF SOCIAL SECURITY ACCOUNT NUM-
17 BERS.—Any usage or disclosure of data in registries under
18 section 2171 that consists of social security account num-
19 bers and related information which is otherwise permitted
20 under this part may be exercised only to the extent per-
21 mitted under section 205(c)(2)(E) of the Social Security
22 Act. For purposes of the preceding sentence, the term ‘re-
23 lated information’ has the meaning given such term in
24 clause (iv)(II) of such section.

1 “(c) UNIFORMITY IN METHODOLOGIES.—The Sec-
2 retary shall establish standards regarding the methodolo-
3 gies used in establishing and operating registries under
4 section 2171, and may make a grant under such section
5 only if the State agrees to comply with the standards. The
6 Secretary shall provide for a reasonable degree of uniform-
7 ity among the States in such methodologies for the pur-
8 pose of ensuring the utility, comparability, and exchange
9 of the data maintained in such registries.

10 “(d) COORDINATION AMONG STATES.—The Sec-
11 retary may make a grant under section 2171 to a State
12 only if, with respect to the operation of the registry of
13 the State under such section, the State agrees to cooperate
14 with the Secretary and with other States in carrying out
15 activities with respect to achieving the objectives estab-
16 lished by the Secretary for the year 2000 for the immuni-
17 zation status of children in the United States.

18 “(e) REPORTS TO SECRETARY.—The Secretary may
19 make a grant under section 2171 only if the State involved
20 agrees to submit to the Secretary such reports as the Sec-
21 retary determines to be appropriate with respect to the
22 activities of the State under this part.

23 **“SEC. 2174. APPLICATION FOR GRANT.**

24 “An application by a State for a grant under section
25 2171 is in accordance with this section if the application—

1 “(1) is submitted not later than the date speci-
2 fied by the Secretary;

3 “(2) contains each agreement required in this
4 part;

5 “(3) contains any information required in this
6 part to be submitted to the Secretary; and

7 “(4) is in such form, is made in such manner,
8 and contains such agreements, assurances, and in-
9 formation as the Secretary determines to be nec-
10 essary to carry out this part.

11 **“SEC. 2175. DETERMINATION OF AMOUNT OF ALLOTMENT.**

12 “The Secretary shall determine the amount of the al-
13 lotments required in section 2171 for States for a fiscal
14 year in accordance with a formula established by the Sec-
15 retary that allots the amounts appropriated under section
16 2177 for the fiscal year on the basis of the costs of the
17 States in establishing and operating registries under sec-
18 tion 2171.

19 **“SEC. 2176. DEFINITIONS.**

20 “For purposes of this part, each of the terms ‘health
21 care provider, ‘pediatric vaccine’ and ‘parent’ has the
22 meaning given the term in section 2162.

23 **“SEC. 2177. AUTHORIZATION OF APPROPRIATIONS.**

24 “For the purpose of carrying out this part, there are
25 authorized to be appropriated \$50,000,000, for fiscal year

1 1994, \$152,000,000 for fiscal year 1995, \$125,000,000
2 for fiscal year 1996, and \$35,000,000 for each of the fis-
3 cal years 1997 through 1999.

4 “PART C—FUNDING FOR OTHER PURPOSES REGARDING
5 CHILDHOOD IMMUNIZATIONS

6 “**SEC. 2181. GRANTS REGARDING YEAR 2000 HEALTH OBJEC-**
7 **TIVES.**

8 “(a) IN GENERAL.—The Secretary, acting through
9 the Director of the Centers for Disease Control and Pre-
10 vention, may make grants to States for the purpose of car-
11 rying out activities with respect to achieving the objectives
12 established by the Secretary for the year 2000 for the im-
13 munization status of children in the United States, other
14 than providing for the purchase and delivery on behalf of
15 the State of any pediatric vaccine (as defined in section
16 2162).

17 “(b) CERTAIN ACTIVITIES.—Subject to subsection
18 (a), the purposes for which a grant under such subsection
19 may be expended include the following:

20 “(1) Research into the prevention and control
21 of diseases that may be prevented through vaccina-
22 tion.

23 “(2) Demonstration projects for the prevention
24 and control of such diseases.

1 “(3) Public information and education pro-
2 grams for the prevention and control of such dis-
3 eases.

4 “(4) Education, training, and clinical skills im-
5 provement activities in the prevention and control of
6 such diseases for health professionals (including al-
7 lied health personnel).

8 “(5) Such other activities as the Secretary de-
9 termines to be appropriate.

10 “(c) APPLICATION FOR GRANT.—The Secretary may
11 make a grant under subsection (a) only if an application
12 for the grant is submitted to the Secretary and the appli-
13 cation is in such form, is made in such manner, and con-
14 tains such agreements, assurances, and information as the
15 Secretary determines to be necessary to carry out this
16 section.

17 “(d) SUPPLIES AND SERVICES IN LIEU OF GRANT
18 FUNDS.— The Secretary, at the request of a recipient of
19 a grant under subsection (a), may reduce the amount of
20 such grant by—

21 “(1) the fair market value of any supplies or
22 equipment furnished the grant recipient, and

23 “(2) the amount of the pay, allowances, and
24 travel expenses of any officer or employee of the
25 Federal Government when detailed to the grant re-

1 recipient and the amount of any other costs incurred
2 in connection with the detail of such officer or
3 employee.

4 When the furnishing of such supplies or equipment or the
5 detail of such an officer or employee is for the convenience
6 of and at the request of such grant recipient and for the
7 purpose of carrying out a program with respect to which
8 the grant under subsection (a) is made. The amount by
9 which any such grant is so reduced shall be available for
10 payment by the Secretary of the costs incurred in furnish-
11 ing the supplies or equipment, or in detailing the person-
12 nel, on which the reduction of such grant is based, and
13 such amount shall be deemed as part of the grant and
14 shall be deemed to have been paid to the grant recipient.

15 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
16 purpose of carrying out this part, there are authorized to
17 be appropriated \$580,000,000 for fiscal year 1993,
18 \$680,000,000 for fiscal year 1994, and such sums as may
19 be necessary for each of the fiscal years 1995 through
20 1999.”.

21 (b) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT
22 NUMBERS.—Section 205(c)(2) of the Social Security Act
23 (42 U.S.C. 405(c)(2)) is amended—

24 (1) by redesignating subparagraphs (E) and
25 (F) as subparagraphs (F) and (G), respectively; and

1 (2) by inserting after subparagraph (D) the fol-
2 lowing new subparagraph:

3 “(E)(i) The Secretary and each State receiving
4 grants under section 2171(a) of the Public Health Service
5 Act may utilize social security account numbers issued by
6 the Secretary under this subsection for purposes of—

7 “(I) operating registries under such section to
8 maintain information including such numbers (and
9 establishing such registries, in the case of a State
10 that is not operating such a registry),

11 “(II) utilizing such numbers to monitor the ex-
12 tent to which children have received immunizations
13 in accordance with the schedule established under
14 section 2160(b) of the Public Health Service Act,
15 and

16 “(III) notifying parents if children have not re-
17 ceived immunizations in accordance with such sched-
18 ule.

19 “(ii) Disclosure by individuals of social security ac-
20 count numbers may be required by a State for purposes
21 of identification of children in a registry operated pursu-
22 ant to a grant referred to in clause (i), except that such
23 disclosure may be required to be made only to persons spe-
24 cifically authorized in regulations of the Secretary pre-
25 scribed under part B of subtitle 3 of title XXI of the Pub-

1 lic Health Service Act. The Secretary shall take such ac-
2 tions as are necessary to restrict access to information
3 consisting of such numbers and related information only
4 to such authorized persons whose duties or responsibilities
5 require access for the purposes described in clause (i). The
6 Secretary shall issue regulations governing the use, main-
7 tenance, and disclosure by any holder of such information,
8 including appropriate administrative, technical, and phys-
9 ical safeguards, to ensure that only such authorized per-
10 sons have access to such information. Any use or disclo-
11 sure of such information in violation of such regulations
12 shall be deemed a disclosure in violation of subparagraph
13 (C)(vii).

14 “(iii) The Secretary shall submit a report to the Com-
15 mittee on Ways and Means of the House of Representa-
16 tives and the Committee on Finance of the Senate not
17 later than January 1, 1996, and biennially thereafter, on
18 the operation of this subparagraph.

19 “(iv) For purposes of this subparagraph—

20 “(I) the term ‘State’ has the meaning provided
21 such term under section 2(f) of the Public Health
22 Service Act, and

23 “(II) the term ‘related information’ means any
24 record, list, or compilation which indicates, directly
25 or indirectly, the identity of any individual with re-

1 spect to whom a social security account number is
2 maintained pursuant to this subparagraph and part
3 B of subtitle 3 of title XXI of the Public Health
4 Service Act.”.

5 (c) RELATIONSHIP OF NEW PROGRAM OF IMMUNIZA-
6 TION GRANTS TO CURRENT PROGRAM.—

7 (1) STRIKING OF CURRENT PROGRAM.—Section
8 317 of the Public Health Service Act (42 U.S.C.
9 247b) is amended—

10 (A) in subsection (j)—

11 (i) by striking paragraph (1); and

12 (ii) by striking the remaining para-
13 graph designation; and

14 (B) in subsection (k)—

15 (i) by striking paragraph (1); and

16 (ii) by redesignating paragraphs (2)
17 through (5) as paragraphs (1) through (4),
18 respectively.

19 (2) TRANSITIONAL AUTHORITY UNDER NEW
20 PROGRAM.—With respect to activities that the Sec-
21 retary of Health and Human Services was author-
22 ized to carry out pursuant to section 317(j)(1) of
23 the Public Health Service Act (as in effect on the
24 day before the date of the enactment of this Act),
25 the Secretary may, for fiscal year 1994, carry out

1 any such activity under section 2181 of the Public
2 Health Service Act (as added by subsection (a) of
3 this section), notwithstanding the provisions of such
4 section 2181. The authority established in the pre-
5 ceding sentence includes the authority to purchase
6 vaccines.

7 (d) CONTINUED COVERAGE OF COSTS OF A PEDI-
8 ATRIC VACCINE UNDER GROUP HEALTH PLANS.—

9 (1) REQUIREMENT.—The requirement of this
10 paragraph, with respect to a group health plan for
11 plan years beginning after the date of the enactment
12 of this Act, is that the group health plan not reduce
13 its coverage of the costs of pediatric vaccines (as de-
14 fined under section 2162 of the Public Health Serv-
15 ice Act) below the coverage it provided as of May 1,
16 1993.

17 (2) ENFORCEMENT.—

18 (A) For purposes of section 2207 of the
19 Public Health Service Act, the requirement of
20 paragraph (1) is deemed a requirement of title
21 XXII of such Act.

22 (B) For purposes of subsections (a)
23 through (e) of section 4980B of the Internal
24 Revenue Code of 1986, paragraph (1) is

1 deemed a requirement of subsection (f) of such
2 section.

3 **SEC. 5182. NATIONAL VACCINE INJURY COMPENSATION**
4 **PROGRAM AMENDMENTS.**

5 (a) USE OF VACCINE INJURY COMPENSATION TRUST
6 FUND.—Section 6601(r) of the Omnibus Budget Rec-
7 onciliation Act of 1989 is amended by striking
8 “\$2,500,000 for each of fiscal years 1991 and 1992” each
9 place it appears and inserting “\$3,000,000 for fiscal year
10 1994 and each fiscal year thereafter” (in three places).

11 (b) AMENDMENT OF VACCINE INJURY TABLE.—Sec-
12 tion 2116(b) of the Public Health Service Act (42 U.S.C.
13 300aa–16(b)) is amended by striking “such person may
14 file” and inserting “or to significantly increase the likeli-
15 hood of obtaining compensation, such person may, not-
16 withstanding section 2111(b)(2), file”.

17 (c) EXTENSION OF TIME FOR DECISION.—Section
18 2112(d)(3)(D) of such Act (42 U.S.C. 300aa–
19 12(d)(3)(D)) is amended by striking “540 days” and in-
20 serting “30 months (but for no more than 6 months at
21 a time)”.

22 (d) SIMPLIFICATION OF VACCINE INFORMATION MA-
23 TERIALS.—

24 (1) Section 2126(b) of such Act (42 U.S.C.
25 300aa–26(b)) is amended—

1 (A) by striking “by rule” in the matter
2 preceding paragraph (1);

3 (B) by striking, in paragraph (1), “, op-
4 portunity for a public hearing, and 90” and in-
5 serting “and 30”; and

6 (C) by striking, in paragraph (2), “, appro-
7 priate health care providers and parent organi-
8 zations”.

9 (2) Section 2126(c) of such Act (42 U.S.C.
10 300aa-26(c)) is amended—

11 (A) by inserting “shall be based on avail-
12 able data and information,” after “such mate-
13 rials” in the matter preceding paragraph (1),
14 and

15 (B) by striking paragraphs (1) through
16 (10) and inserting the following:

17 “(1) a concise description of the benefits of the
18 vaccine,

19 “(2) a concise description of the risks associ-
20 ated with the vaccine,

21 “(3) a statement of the availability of the Na-
22 tional Vaccine Injury Compensation Program, and

23 “(4) such other relevant information as may be
24 determined by the Secretary.”.

1 (3) Subsections (a) and (d) of section 2126 of
2 such Act (42 U.S.C. 300aa-26) are each amended
3 by inserting “or to any other individual” after “to
4 the legal representatives of any child”.

5 (4) Subsection (d) of section 2126 of such Act
6 (42 U.S.C. 300aa-26) is amended—

7 (A) by striking all after “subsection (a),”
8 the second place it appears in the first sentence
9 and inserting “supplemented with visual presen-
10 tations or oral explanations, in appropriate
11 cases.”, and

12 (B) by striking “or other information” in
13 the last sentence.

14 **SEC. 5183. MEDICAID IMMUNIZATION PROVISIONS.**

15 (a) OUTREACH AND EDUCATION.—

16 (1) IMMUNIZATION OUTREACH THROUGH EPSDT
17 PROGRAM.—Section 1902(a)(43)(A) (42 U.S.C.
18 1396a(a)(43)(A)) is amended by inserting before the
19 comma at the end the following: “and the need for
20 age-appropriate immunizations against vaccine-pre-
21 ventable diseases”.

22 (2) COORDINATION WITH MATERNAL AND
23 CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC
24 PROGRAMS.—Section 1902(a)(11) (42 U.S.C.
25 1396a(a)(11)) is amended—

1 (A) in clause (B)—

2 (i) by striking “effective July 1,
3 1969,”,

4 (ii) by striking “and” before “(ii)”,
5 and

6 (iii) by striking “to him under section
7 1903” and inserting “to the individual
8 under section 1903, and (iii) providing for
9 coordination of information and education
10 on childhood vaccinations and delivery of
11 immunization services”; and

12 (B) in clause (C), by inserting “(including
13 the provision of information and education on
14 childhood vaccinations and the delivery of im-
15 munization services)” after “operations under
16 this title”.

17 (3) COVERAGE OF PUBLIC HOUSING HEALTH
18 CENTERS AS FEDERALLY-QUALIFIED HEALTH CEN-
19 TERS.—Section 1905(l)(2)(B) (42 U.S.C.
20 1396d(l)(2)(B)) is amended by striking “or 340”
21 each place it appears and inserting “340, or 340A”.

22 (4) EFFECTIVE DATE.—(A) Except as provided
23 in subparagraph (B), the amendments made by this
24 subsection shall apply to calendar quarters beginning
25 on or after October 1, 1993, without regard to

1 whether or not final regulations to carry out such
2 amendments have been promulgated by such date.

3 (B) In the case of a State plan for medical as-
4 sistance under title XIX of the Social Security Act
5 which the Secretary of Health and Human Services
6 determines requires State legislation (other than leg-
7 islation appropriating funds) in order for the plan to
8 meet the additional requirements imposed by the
9 amendments made by this subsection, the State plan
10 shall not be regarded as failing to comply with the
11 requirements of such title solely on the basis of its
12 failure to meet these additional requirements before
13 the first day of the first calendar quarter beginning
14 after the close of the first regular session of the
15 State legislature that begins after the date of the en-
16 actment of this Act. For purposes of the previous
17 sentence, in the case of a State that has a 2-year
18 legislative session, each year of such session shall be
19 deemed to be a separate regular session of the State
20 legislature.

21 (b) SCHEDULE OF IMMUNIZATIONS UNDER
22 EPSDT.—

23 (1) IN GENERAL.—Section 1905(r)(1) (42
24 U.S.C. 1396d(r)(1)) is amended—

1 (A) in subparagraph (A)(i), by inserting
2 “and, with respect to immunizations under sub-
3 paragraph (B)(iii), in accordance with the
4 schedule recommended by the Secretary under
5 section 2160 of the Public Health Service Act”
6 after “child health care”; and

7 (B) in subparagraph (B)(iii), by inserting
8 “(according to the schedule recommended by
9 the Secretary under section 2160 of the Public
10 Health Service Act)” after “appropriate immu-
11 nizations”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by subparagraphs (A) and (B) of paragraph (1)
14 shall first apply 90 days after the date the Secretary
15 of Health and Human Services first issues the rec-
16 ommended schedule referred to in subparagraphs
17 (A)(i) and subparagraph (B)(iii) of section
18 1905(r)(1) of the Social Security Act (as amended
19 by such respective subparagraphs).

20 (c) ASSURING ADEQUATE PAYMENT RATES FOR AD-
21 MINISTRATION OF VACCINES TO CHILDREN.—

22 (1) PAYMENT RATES.—Section 1926(a)(4)(B)
23 (42 U.S.C. 1396r-7(a)(4)(B)) is amended by insert-
24 ing “(including the administration of vaccines)”
25 after “means services”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to the plan amendment
3 required to be submitted under section 1926(a)(2) of
4 the Social Security Act by not later than April 1,
5 1994.

6 (d) DENIAL OF FEDERAL FINANCIAL PARTICIPATION
7 FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTI-
8 GEN VACCINE.—

9 (1) IN GENERAL.—Section 1903(i) (42 U.S.C.
10 1396b(i)), as amended by sections 5174(b) and
11 5131(a), is amended—

12 (A) in paragraph (13), by striking “or” at
13 the end,

14 (B) in paragraph (14), by striking the pe-
15 riod at the end and inserting “; or”, and

16 (C) by inserting after paragraph (14) the
17 following new paragraph:

18 “(15) with respect to any amount expended for
19 a single-antigen vaccine and its administration in
20 any case in which the administration of a combined-
21 antigen vaccine was medically appropriate (as deter-
22 mined by the Secretary).”.

23 (2) EFFECTIVE DATE.—The amendments made
24 by paragraph (1) shall apply to amounts expended

1 for vaccines administered on or after October 1,
2 1993.

3 (e) REQUIRING MEDICAID MANAGED CARE PLANS
4 TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT
5 REQUIREMENTS.—

6 (1) IN GENERAL.—Section 1903(m) (42 U.S.C.
7 1396b(m)) is amended—

8 (A) in paragraph (2)(A), as amended by
9 subsections (a)(1) and (b)(1) of section 5135—

10 (i) by striking “and” at the end of
11 clause (xii),

12 (ii) by striking the period at the end
13 of clause (xiii) and inserting “; and”, and

14 (iii) by adding at the end the follow-
15 ing new clause:

16 “(xiv) the entity complies with the requirements
17 of paragraph (7) (relating to EPSDT compliance).”;
18 and

19 (B) by adding at the end the following new
20 paragraph:

21 “(7) The contract between the State and an entity
22 referred to in paragraph (2)(A)(iii) shall—

23 “(A) specify which early and periodic screening,
24 diagnostic, and treatment services are to be provided

1 under the contract to individuals under age 21 en-
2 rolled with the entity;

3 “(B) in the case of such services which are not
4 to be so provided, specify the steps the entity will
5 take (through referrals or other arrangements) to
6 assure that such individuals will receive such serv-
7 ices; and

8 “(C) require the entity to submit such periodic
9 reports as may be necessary to enable the State to
10 prepare and submit timely reports under section
11 1902(a)(43)(D) and section 506(a)(2).”.

12 (2) APPLICATION OF INTERMEDIATE SANC-
13 TIONS FOR FAILURE TO PROVIDE IMMUNIZA-
14 TIONS AND OTHER EPSDT SERVICES.—Section
15 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is
16 amended—

17 (A) by striking “, or” at the end of clause
18 (iv) and inserting a semicolon,

19 (B) by striking the comma at the end of
20 clause (v) and inserting “; or”, and

21 (C) by inserting after clause (v) the follow-
22 ing new clause:

23 “(vi) fails substantially to provide early and
24 periodic screening, diagnostic, and treatment serv-

1 ices to the extent specified in the contract under
2 paragraph (7)(A);”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to contract years be-
5 ginning on or after October 1, 1993, without regard
6 to whether or not final regulations to carry out such
7 amendments have been promulgated by such date.

8 (f) TRANSITION RULE.—

9 (1) MEDICAID USE OF CDC CONTRACT PRICE.—
10 The Secretary of Health and Human Services shall
11 not, on or after the date of the enactment of this
12 Act, enter into a contract for the purchase by the
13 Centers for Disease Control and Prevention of pedi-
14 atric vaccines for distribution (as provided for in
15 section 317 or section 2181 of the Public Health
16 Service Act) unless such contract provides that the
17 charge for such vaccines, for which medical assist-
18 ance is provided under a State plan under title XIX
19 of the Social Security Act, will not exceed the price
20 negotiated under the contract. The previous sentence
21 shall not apply, with respect to a vaccine for which
22 medical assistance is provided by a State, on and
23 after such date as the State becomes entitled to have
24 the Secretary provide for the purchase and delivery

1 on behalf of the State of that vaccine under section
2 2151 of the Public Health Service Act.

3 (2) OPTIONAL USE BY STATES OF CDC CON-
4 TRACT PRICE.—Nothing in paragraph (1) shall be
5 construed as limiting the Federal financial participa-
6 tion available to States, under title XIX of the So-
7 cial Security Act, for the cost of a pediatric vaccine
8 to the contract price described in such paragraph for
9 the vaccine.

10 **SEC. 5184. AVAILABILITY OF MEDICAID PAYMENTS FOR**
11 **CHILDHOOD VACCINE REPLACEMENT PRO-**
12 **GRAMS.**

13 (a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C.
14 1396a(a)(32)) is amended—

15 (1) by striking “and” at the end of subpara-
16 graph (B),

17 (2) by striking the period at the end of sub-
18 paragraph (C) and inserting “; and”, and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(D) in the case of payment for a child-
22 hood vaccine administered to individuals enti-
23 tled to medical assistance under the State plan,
24 the State plan may make payment directly to
25 the manufacturer of the vaccine under a vol-

1 untary replacement program agreed to by the
2 State pursuant to which the manufacturer (i)
3 supplies doses of the vaccine to providers ad-
4 ministering the vaccine, (ii) periodically replaces
5 the supply of the vaccine, and (iii) charges the
6 State the manufacturer’s bid price to the Cen-
7 ters for Disease Control and Prevention for the
8 vaccine so administered plus a reasonable pre-
9 mium to cover shipping and the handling of re-
10 turns;”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall take effect on the date of the enact-
13 ment of this Act.

14 **SEC. 5185. HEALTHY START FOR INFANTS.**

15 (a) IN GENERAL.—Part D of title III of the Public
16 Health Service Act (42 U.S.C. 254b et seq.) is amended
17 by inserting after section 330 the following section:

18 “HEALTHY START FOR INFANTS

19 “SEC. 330A. (a) GRANTS FOR COMPREHENSIVE
20 SERVICES.—

21 “(1) IN GENERAL.—The Secretary may make
22 grants for the operation of not more than 21 dem-
23 onstration projects to provide the services described
24 in subsection (b) for the purpose of reducing, in the
25 geographic areas in which the projects are carried
26 out—

1 “(A) the incidence of infant mortality and
2 morbidity;

3 “(B) the incidence of fetal deaths;

4 “(C) the incidence of maternal mortality;

5 “(D) the incidence of fetal alcohol syn-
6 drome; and

7 “(E) the incidence of low-birthweight
8 births.

9 “(2) ACHIEVEMENT OF YEAR 2000 HEALTH STA-
10 TUS OBJECTIVES.—With respect to the objectives es-
11 tablished by the Secretary for the health status of
12 the population of the United States for the year
13 2000, the Secretary shall, in providing for a dem-
14 onstration project under paragraph (1) in a geo-
15 graphic area, seek to meet the objectives that are
16 applicable to the purpose described in such para-
17 graph and the populations served by the project.

18 “(b) AUTHORIZED SERVICES.—

19 “(1) IN GENERAL.—Subject to subsection (h),
20 the services referred to in this subsection are com-
21 prehensive services (including preventive and pri-
22 mary health services for pregnant women and in-
23 fants and childhood immunizations in accordance
24 with the schedule recommended by the Secretary
25 under section 2160) for carrying out the purpose de-

1 scribed in subsection (a), including services other
2 than health services.

3 “(2) CERTAIN PROVIDERS.—The Secretary may
4 make a grant under subsection (a) only if the appli-
5 cant involved agrees that, in making any arrange-
6 ments under which other entities provide authorized
7 services in the demonstration project involved, the
8 applicant will include among the entities with which
9 the arrangements are made grantees under any of
10 sections 329, 330, 340, and 340A, if such grantees
11 are providing services in the service area of such
12 project and the grantees are willing to make such
13 arrangements with the applicant.

14 “(c) ELIGIBLE GEOGRAPHIC AREAS.—The Secretary
15 may make a grant under subsection (a) only if—

16 “(1) the applicant for the grant specifies the
17 geographic area in which the demonstration project
18 under such subsection is to be carried out and
19 agrees that the project will not be carried out in
20 other areas; and

21 “(2) the rate of infant mortality in the geo-
22 graphic area equals or exceeds 150 percent of the
23 national average in the United States of such rates.

24 “(d) MINIMUM QUALIFICATIONS OF GRANTEEES.—

1 “(1) PUBLIC OR NONPROFIT PRIVATE ENTI-
2 TIES.—The Secretary may make a grant under sub-
3 section (a) only if the applicant for the grant is a
4 State or local department of health, or other public
5 or nonprofit private entity, or a consortium of public
6 or nonprofit private entities.

7 “(2) APPROVAL OF POLITICAL SUBDIVISIONS.—
8 With respect to a proposed demonstration project
9 under subsection (a), the Secretary may make a
10 grant under such subsection only if—

11 “(A) the chief executive officer of each po-
12 litical subdivision in the service area of such
13 project approves the applicant for the grant as
14 being qualified to carry out the project; and

15 “(B) the leadership of any Indian tribe or
16 tribal organization with jurisdiction over any
17 portion of such area so approves the applicant.

18 “(3) STATUS AS MEDICAID PROVIDER.—

19 “(A) In the case of any service described
20 in subsection (b) that is available pursuant to
21 the State plan approved under title XIX of the
22 Social Security Act for a State in which a dem-
23 onstration project under subsection (a) is car-
24 ried out, the Secretary may make a grant under

1 such subsection for the project only if, subject
2 to subparagraph (B)—

3 “(i) the applicant for the grant will
4 provide the service directly, and the appli-
5 cant has entered into a participation agree-
6 ment under the State plan and is qualified
7 to receive payments under such plan; or

8 “(ii) the applicant will enter into an
9 agreement with a public or private entity
10 under which the entity will provide the
11 service, and the entity has entered into
12 such a participation agreement under the
13 State plan and is qualified to receive such
14 payments.

15 “(B)(i) In the case of an entity making an
16 agreement pursuant to subparagraph (A)(ii) re-
17 garding the provision of services, the require-
18 ment established in such subparagraph regard-
19 ing a participation agreement shall be waived
20 by the Secretary if the entity does not, in pro-
21 viding health care services, impose a charge or
22 accept reimbursement available from any third-
23 party payor, including reimbursement under
24 any insurance policy or under any Federal or
25 State health benefits plan.

1 “(ii) A determination by the Secretary of
2 whether an entity referred to in clause (i) meets
3 the criteria for a waiver under such clause shall
4 be made without regard to whether the entity
5 accepts voluntary donations regarding the pro-
6 vision of services to the public.

7 “(e) STATE APPROVAL OF PROJECT.—With respect
8 to a proposed demonstration project under subsection (a),
9 the Secretary may make a grant under such subsection
10 to the applicant involved only if—

11 “(1) the chief executive officer of the State in
12 which the project is to be carried out approves the
13 proposal of the applicant for carrying out the
14 project; and

15 “(2) the leadership of any Indian tribe or tribal
16 organization with jurisdiction over any portion of the
17 service area of the project so approves the proposal.

18 “(f) ELIGIBILITY FOR SERVICES PROVIDED WITH
19 GRANT FUNDS.—

20 “(1) IN GENERAL.—With respect to any au-
21 thorized service under subsection (b), if the service
22 is a service that States are required or authorized to
23 provide under title XIX of the Social Security Act,
24 the Secretary may make a grant under subsection
25 (a) only if the applicant involved agrees that the

1 grant will not be expended to provide the service to
2 any individual to whom States are required or au-
3 thorized under such title to provide the service. The
4 Secretary may not make a grant under subsection
5 (a) unless the State involved agrees that the grant
6 will not be expended to make payment for any item
7 or service to the extent that payment has been
8 made, or can reasonably be expected to be made,
9 with respect to such item or service—

10 “(A) under a health insurance policy or
11 plan (including a group health plan or a pre-
12 paid health plan),

13 “(B) under any Federal or State health
14 benefits program, including any program under
15 title V, XVIII, or XIX of the Social Security
16 Act, or

17 “(C) under subpart 2 of part B of title
18 XIX of this Act.

19 “(2) RULES OF CONSTRUCTION.—For purposes
20 of paragraph (1):

21 “(A) Individuals to whom States are au-
22 thorized to provide services under title XIX of
23 the Social Security Act include, pursuant to
24 section 1902(l) of such title, pregnant women,
25 infants, and children with an income level not

1 less than 133 percent, and not more than 185
2 percent, of the official poverty line.

3 “(B) Authorized services under subsection
4 (b) that are authorized to be provided under
5 title XIX of such Act include, pursuant to sec-
6 tion 1920 of such title, ambulatory prenatal
7 services during a period of presumptive eligi-
8 bility.

9 “(C) Authorized services under subsection
10 (b) that are required to be provided under title
11 XIX of such Act include, pursuant to section
12 1905(a)(4)(B) of such title, early and periodic
13 screening, diagnostic, and treatment services for
14 children under the age of 21.

15 “(D) Authorized services under subsection
16 (b) that are authorized to be provided under
17 title XIX of such Act include, pursuant to sec-
18 tion 1905(a)(19) of such title, case-manage-
19 ment services.

20 “(g) MAINTENANCE OF EFFORT.—

21 “(1) GRANTEE.—With respect to authorized
22 services under subsection (b), the Secretary may
23 make a grant under subsection (a) only if the appli-
24 cant involved agrees to maintain expenditures of
25 non-Federal amounts for such services at a level

1 that is not less than the level of such expenditures
2 maintained by the applicant for fiscal year 1991.

3 “(2) RELEVANT POLITICAL SUBDIVISIONS.—

4 With respect to authorized services under subsection
5 (b), the Secretary may make a grant under sub-
6 section (a) only if each political subdivision in the
7 service area of the demonstration project involved
8 agrees to maintain expenditures of non-Federal
9 amounts for such services at a level that is not less
10 than the level of such expenditures maintained by
11 the political subdivision for fiscal year 1991.

12 “(h) RESTRICTIONS ON EXPENDITURE OF GRANT.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (3), the Secretary may make a grant under
15 subsection (a) only if the applicant involved agrees
16 that the grant will not be expended—

17 “(A) to provide inpatient services, except
18 with respect to residential treatment for sub-
19 stance abuse provided in settings other than
20 hospitals;

21 “(B) to make cash payments to intended
22 recipients of health services or mental health
23 services; or

24 “(C) to purchase or improve real property
25 (other than minor remodeling of existing im-

1 provements to real property) or to purchase
2 major medical equipment (other than mobile
3 medical units for providing ambulatory prenatal
4 services).

5 “(2) ADMINISTRATIVE EXPENSES; DATA COL-
6 LECTION.—The Secretary may make a grant under
7 subsection (a) only if the applicant involved agrees
8 that not more than an aggregate 10 percent of the
9 grant will be expended for administering the grant
10 and the collection and analysis of data.

11 “(3) WAIVER.—If the Secretary finds that the
12 purpose described in subsection (a) cannot otherwise
13 be carried out, the Secretary may, with respect to an
14 otherwise qualified applicant, waive the restriction
15 established in paragraph (1)(C).

16 “(i) DETERMINATION OF CAUSE OF INFANT
17 DEATHS.—The Secretary may make a grant under sub-
18 section (a) only if the applicant involved—

19 “(1) agrees to provide for a determination of
20 the cause of each infant death in the service area of
21 the demonstration project involved; and

22 “(2) the applicant has made such arrangements
23 with public entities as may be necessary to carry out
24 paragraph (1).

1 “(j) ANNUAL REPORTS TO SECRETARY.—The Sec-
2 retary may make a grant under subsection (a) only if the
3 applicant involved agrees that, for each fiscal year for
4 which the applicant operates a demonstration project
5 under such subsection the applicant will, not later than
6 April 1 of the subsequent fiscal year, submit to the Sec-
7 retary a report providing the following information with
8 respect to the project:

9 “(1) The number of individuals that received
10 authorized services, and the demographic character-
11 istics of the population of such individuals.

12 “(2) The types of authorized services provided,
13 including the types of ambulatory prenatal services
14 provided and the trimester of the pregnancy in
15 which the services were provided.

16 “(3) The sources of payment for the authorized
17 services provided.

18 “(4) The extent to which children under age 2
19 receiving authorized services have received the ap-
20 propriate number and variety of immunizations
21 against vaccine-preventable diseases.

22 “(5) An analysis of the causes of death deter-
23 mined under subsection (i).

1 “(6) The extent of progress being made toward
2 meeting the health status objectives specified in sub-
3 section (a)(2).

4 “(7) The extent to which, in the service area in-
5 volved, progress is being made toward meeting the
6 participation goals established for the State by the
7 Secretary under section 1905(r) of the Social Secu-
8 rity Act (relating to early periodic screening, diag-
9 nostic, and treatment services for children under the
10 age of 21).

11 “(k) COMMUNITY PARTICIPATION.—The Secretary
12 may make a grant under subsection (a) only if the appli-
13 cant involved agrees that, in preparing the proposal of the
14 applicant for the demonstration project involved, and in
15 the operation of the project, the applicant will consult with
16 the residents of the service area for the project and with
17 public and nonprofit private entities that provide author-
18 ized services to such residents.

19 “(l) APPLICATION FOR GRANT.—The Secretary may
20 make a grant under subsection (a) only if an application
21 for the grant is submitted to the Secretary and the appli-
22 cation is in such form, is made in such manner, and con-
23 tains such agreements, assurances, and information as the
24 Secretary determines to be necessary to carry out this sub-
25 section.

1 “(m) REPORT TO CONGRESS.—Not later than Feb-
2 ruary 1, 1998, the Secretary shall submit to the Commit-
3 tee on Energy and Commerce of the House of Representa-
4 tives, and the Committee on Labor and Human Resources
5 of the Senate, a report—

6 “(1) summarizing the reports received by the
7 Secretary under subsection (j);

8 “(2) describing the extent to which demonstra-
9 tion projects under subsection (a) have been cost ef-
10 fective; and

11 “(3) describing the extent to which the Sec-
12 retary has, in the service areas of such projects,
13 been successful in meeting the health status objec-
14 tives specified in subsection (a)(2).

15 “(n) LIMITATION ON CERTAIN EXPENSES OF SEC-
16 RETARY.—Of the amounts appropriated under subsection
17 (o) for a fiscal year, the Secretary may not obligate more
18 than an aggregate 5 percent for the administrative costs
19 of the Secretary in carrying out this section, for the provi-
20 sion of technical assistance regarding demonstration
21 projects under subsection (a), and for evaluations of such
22 projects.

23 “(o) DEFINITIONS.—For purposes of this section:

24 “(1) The term ‘authorized services’ means the
25 services specified in subsection (b).

1 “(2) The terms ‘Indian tribe’ and ‘tribal organi-
2 zation’ have the meaning given such terms in section
3 4(b) and section 4(c) of the Indian Self-Determina-
4 tion and Education Assistance Act.

5 “(3) The term ‘service area’, with respect to a
6 demonstration project under subsection (a), means
7 the geographic area specified in subsection (c).

8 “(p) AUTHORIZATION OF APPROPRIATIONS.—For the
9 purpose of carrying out this section, there are authorized
10 to be appropriated for each of the fiscal years 1994
11 through 1997 such sums as may be necessary.

12 “(q) SUNSET.—Effective October 1, 1997, this sec-
13 tion is repealed.”.

14 (b) REPORT FOR FISCAL YEAR 1993.—With respect
15 to grants under section 330A of the Public Health Service
16 Act, as added by subsection (a) of this section, the Sec-
17 retary of Health and Human Services may make a grant
18 under such section for fiscal year 1994 only if the appli-
19 cant for the grant agrees to submit to the Secretary, not
20 later than April 1 of such year, a report on any federally-
21 supported project of the applicant that is substantially
22 similar to the demonstration projects authorized in such
23 section 330A, which report provides, to the extent prac-
24 ticable, the information described in subsection (j) of such
25 section.

1 (c) SAVINGS PROVISION.—With respect to grants
2 under section 330A of the Public Health Service Act, as
3 added by subsection (a) of this section and in effect for
4 the fiscal years 1994 through 1997, such grants remain
5 available for obligation and expenditure in accordance with
6 the terms upon which the grants were made, notwith-
7 standing the repeal of such section 330A pursuant to sub-
8 section (q) of such section.

9 (d) USE OF GENERAL AUTHORITY UNDER PUBLIC
10 HEALTH SERVICE ACT.—With respect to the program es-
11 tablished in section 330A of the Public Health Service Act,
12 as added by subsection (a) of this section, section 301 of
13 the Public Health Service Act may not be construed as
14 providing to the Secretary of Health and Human Services
15 any authority to carry out, during any fiscal year in which
16 such program is in operation, any demonstration project
17 to provide any of the services specified in subsection (b)
18 of such section 330A.

19 **SEC. 5186. INCREASE IN AUTHORIZATION OF APPROPRIA-**
20 **TIONS FOR THE MATERNAL AND CHILD**
21 **HEALTH SERVICES BLOCK GRANT PROGRAM.**

22 Section 501(a) (42 U.S.C. 701(a)) is amended by
23 striking “\$686,000,000 for fiscal year 1990” and insert-
24 ing “\$705,000,000 for fiscal year 1994”.

1 **SEC. 5187. MISCELLANEOUS TECHNICAL CORRECTIONS TO**
2 **PUBLIC HEALTH SERVICE ACT PROVISIONS.**

3 (a) COMPENSATION FOR MEMBERS OF NATIONAL
4 ADVISORY COUNCIL ON NATIONAL HEALTH SERVICE
5 CORPS.—

6 (1) IN GENERAL.—Section 337(b)(2) of the Public
7 Health Service Act (42 U.S.C. 254j(b)(2)) is amended—

8 (A) by inserting after “so serving” the fol-
9 lowing: “compensation at a rate fixed by the
10 Secretary (but not to exceed”, and

11 (B) by striking “Schedule;” and inserting
12 “Schedule);”.

13 (2) EFFECTIVE DATE.—The amendments made
14 by paragraph (1) shall take effect on the date of the
15 enactment of this Act.

16 (b) LIABILITY PROTECTIONS FOR INDIVIDUALS PRO-
17 VIDING SERVICES AT CERTAIN CLINICS.—

18 (1) CLARIFICATION OF VOLUNTARY PARTICIPA-
19 TION BY CERTAIN ENTITIES.—(A) Section 224(g) of
20 the Public Health Service Act (42 U.S.C.
21 133(g)(1)), as added by section 2(a) of the Federally
22 Supported Health Centers Assistance Act of 1992, is
23 amended—

24 (i) in paragraph (4), by striking “An en-
25 tity” and inserting “Except as provided in
26 paragraph (6), an entity”, and

1 (ii) by adding at the end the following new
2 paragraph:

3 “(6) An entity may elect not to be treated as being
4 described in paragraph (4) if the entity establishes that
5 on a continuous basis since October 24, 1992, the entity
6 has been a participant in, and partial owner of, a nonprofit
7 risk retention group which offers malpractice and other
8 liability coverage to the entity.”.

9 (B) Section 224(k)(2) of such Act (42 U.S.C.
10 233(k)(2)), as added by section 4 of the Federally
11 Supported Health Centers Assistance Act of 1992, is
12 amended by striking “entities receiving funds” and
13 all that follows through “subsection (g)” and insert-
14 ing the following: “entities described in subsection
15 (g)(4) and receiving funds under each of the grant
16 programs described in such subsection”.

17 (2) CLARIFICATION OF COVERAGE OF OFFICERS
18 AND EMPLOYEES OF CLINICS.—The first sentence of
19 section 224(g)(1) of the Public Health Service Act
20 (42 U.S.C. 233(g)(1)) is amended by striking “offi-
21 cer, employee, or contractor” and inserting the fol-
22 lowing: “officer or employee of such an entity, and
23 any contractor”.

24 (3) COVERAGE FOR SERVICES FURNISHED TO
25 INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—

1 Section 224(g) of such Act (42 U.S.C. 233(g)(1)),
2 as amended by paragraph (1), is amended—

3 (A) in the first sentence of paragraph (1),
4 by inserting after “Service” the following: “with
5 respect to services provided to patients of the
6 entity and (subject to paragraph (7)) to certain
7 other individuals”; and

8 (B) by adding at the end the following new
9 paragraph:

10 “(7) For purposes of paragraph (1), an officer, em-
11 ployee, or contractor described in such paragraph may be
12 deemed to be an employee of the Public Health Service
13 with respect to services provided to individuals who are
14 not patients of an entity described in paragraph (4) only
15 if the Secretary determines—

16 “(A) that the provision of the services to such
17 individuals is necessary to assure the treatment of
18 patients of such an entity; or

19 “(B) that such services are otherwise required
20 to be provided to such individuals under an employ-
21 ment contract (or other similar arrangement) be-
22 tween the individual and the entity.”.

23 (4) DETERMINING COMPLIANCE OF ENTITY
24 WITH REQUIREMENTS FOR COVERAGE.—Section
25 224(h) of such Act (42 U.S.C. 233(h)), as added by

1 section 2(b) of the Federally Supported Health Cen-
2 ters Assistance Act of 1992, is amended by striking
3 “the entity—” and inserting the following: “the Sec-
4 retary, after receiving such assurances and conduct-
5 ing such investigation as the Secretary considers
6 necessary, finds that the entity—”.

7 (5) EFFECTIVE DATE.—The amendments made
8 by this subsection shall take effect as if included in
9 the enactment of the Federally Supported Health
10 Centers Assistance Act of 1992.

11 (c) ELIMINATION OF DUPLICATE WAIVER AUTHOR-
12 ITY FOR PARTICIPANTS IN NATIONAL HEALTH SERVICE
13 CORPS.—Section 338E(c) of the Public Health Service
14 Act (42 U.S.C. 254o(c)) is amended by striking paragraph
15 (3) and redesignating paragraph (4) as paragraph (3).

16 (d) CLARIFICATION OF PROHIBITION AGAINST RE-
17 SALE OF DRUGS UNDER DRUG REBATE AGREEMENTS.—
18 Section 340B(a)(5)(B) of the Public Health Service Act
19 (42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of
20 the Veterans Health Care of 1992, is amended by striking
21 “entity.” and inserting “covered entity.”.

22 **Subtitle C—Communications**

23 **Licensing Improvement**

24 **SEC. 5200. TABLE OF CONTENTS.**

25 The table of contents is as follows:

Subtitle C—Communications Licensing Improvement

Sec. 5200. Table of contents.

CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

- Sec. 5201. Short title.
 Sec. 5202. Findings.
 Sec. 5203. Authority to use competitive bidding.
 Sec. 5204. Conforming amendments.
 Sec. 5205. Regulatory parity.
 Sec. 5206. Effective dates; deadlines for Commission action.

CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

- Sec. 5221. Short title.
 Sec. 5222. Amendment to the National Telecommunications and Information Administration Organization Act.

CHAPTER 3—COMMUNICATIONS TECHNICAL AMENDMENTS

- Sec. 5241. Clerical corrections.
 Sec. 5242. Transfer of provisions of law concerning public telecommunications facilities, children’s educational television, and telecommunications demonstration program.
 Sec. 5243. Elimination of expired and outdated provisions.
 Sec. 5244. Stylistic consistency.

1 **CHAPTER 1—COMPETITIVE BIDDING**
 2 **AUTHORITY**

3 **SEC. 5201. SHORT TITLE.**

4 This chapter may be cited as the “Licensing Improve-
 5 ment Act of 1993”.

6 **SEC. 5202. FINDINGS.**

7 The Congress finds that—

8 (1) current licensing procedures often delay de-
 9 livery of services to the public and can result in the
 10 unjust enrichment of applicants on the basis of the
 11 value of the public airwaves;

12 (2) if licensees are engaged in reselling the use
 13 of the public airwaves to subscribers for a fee, the

1 licensee should pay reasonable compensation to the
2 public for those public resources;

3 (3) a carefully designed system to obtain com-
4 petitive bids from competing qualified applicants can
5 speed delivery of services, promote efficient and in-
6 tensive use of the electromagnetic spectrum, prevent
7 unjust enrichment, and produce revenues to com-
8 pensate the public for the use of the public airwaves;
9 and

10 (4) therefore, the Federal Communications
11 Commission should have the authority to differen-
12 tiate among multiple qualified applicants for a single
13 license using a system of competitive bids.

14 **SEC. 5203. AUTHORITY TO USE COMPETITIVE BIDDING.**

15 Section 309 of the Communications Act of 1934 (47
16 U.S.C. 309) is amended by adding at the end the following
17 new subsection:

18 “(j) USE OF COMPETITIVE BIDDING.—

19 “(1) GENERAL AUTHORITY.—If mutually exclu-
20 sive applications are filed for any initial license or
21 construction permit which will involve a use of the
22 electromagnetic spectrum described in paragraph
23 (2), then the Commission shall have the authority to
24 grant such license or permit to a qualified applicant

1 through the use of a system of competitive bidding
2 that meets the requirements of this subsection.

3 “(2) USES TO WHICH BIDDING MAY APPLY.—A
4 use of the electromagnetic spectrum is described in
5 this paragraph if the Commission determines that—

6 “(A) the principal use of such spectrum
7 will involve, or is reasonably likely to involve,
8 the licensee receiving compensation from sub-
9 sscribers in return—

10 “(i) for the licensee enabling those
11 subscribers to receive communications sig-
12 nals that are transmitted utilizing fre-
13 quencies on which the licensee is licensed
14 to operate; or

15 “(ii) for the licensee enabling those
16 subscribers to transmit directly commu-
17 nications signals utilizing frequencies on
18 which the licensee is licensed to operate;
19 and

20 “(B) a system of competitive bidding will
21 promote the objectives described in paragraph
22 (3).

23 “(3) DESIGN OF SYSTEMS OF COMPETITIVE
24 BIDDING.—For each license or permit, or class of
25 licenses or permits, that the Commission grants

1 through the use of a competitive bidding system, the
2 Commission shall, by rule, establish a competitive
3 bidding methodology. The Commission shall seek to
4 design and test multiple alternative methodologies
5 under appropriate circumstances. In identifying li-
6 censes and permits to be issued by competitive bid-
7 ding, in specifying eligibility and other characteris-
8 tics of such licenses and permits, and in designing
9 the methodologies for use under this subsection, the
10 Commission shall seek to promote the purposes
11 specified in section 1 of this Act and the following
12 objectives:

13 “(A) the development and rapid deploy-
14 ment of new technologies, products, and serv-
15 ices for the benefit of the public, including
16 those residing in rural areas, without adminis-
17 trative or judicial delays;

18 “(B) promoting economic opportunity and
19 competition and ensuring that new and innova-
20 tive technologies are readily accessible to the
21 American people by avoiding excessive con-
22 centration of licenses and by disseminating li-
23 censes among a wide variety of applicants, in-
24 cluding small businesses and businesses owned
25 by members of minority groups and women;

1 “(C) recovery for the public of a portion of
2 the value of the public spectrum resource made
3 available for commercial use and avoidance of
4 unjust enrichment through the methods em-
5 ployed to award uses of that resource; and

6 “(D) efficient and intensive use of the elec-
7 tromagnetic spectrum.

8 “(4) CONTENTS OF REGULATIONS.—In pre-
9 scribing rules pursuant to paragraph (3), the Com-
10 mission shall—

11 “(A) consider alternative payment sched-
12 ules and methods of calculation, including ini-
13 tial lump sums, installment or royalty pay-
14 ments, guaranteed annual minimum payments,
15 or other schedules or methods that promote the
16 objectives described in paragraph (3)(B), and
17 combinations of such schedules and methods;

18 “(B) include performance requirements,
19 such as appropriate deadlines and penalties for
20 performance failures, to ensure prompt delivery
21 of service to rural areas, to prevent stockpiling
22 or warehousing of spectrum by licensees or per-
23 mittees, and to promote investment in and
24 rapid deployment of new technologies and serv-
25 ices;

1 “(C) consistent with the public interest,
2 convenience, and necessity, the purposes of this
3 Act, and the characteristics of the proposed
4 service, prescribe area designations and band-
5 width assignments that promote (i) an equitable
6 distribution of licenses and services among geo-
7 graphic areas, (ii) economic opportunity for a
8 wide variety of applicants, including small busi-
9 nesses and businesses owned by members of mi-
10 nority groups and women, and (iii) investment
11 in and rapid deployment of new technologies
12 and services; and

13 “(D) require such transfer disclosures and
14 antitrafficking restrictions and payment sched-
15 ules as may be necessary to prevent unjust en-
16 richment as a result of the methods employed
17 to issue licenses and permits.

18 “(5) BIDDER AND LICENSEE QUALIFICATION.—
19 No person shall be permitted to participate in a sys-
20 tem of competitive bidding pursuant to this sub-
21 section unless such bidder submits such information
22 and assurances as the Commission may require to
23 demonstrate that such bidder’s application is accept-
24 able for filing. No license shall be granted to an ap-
25 plicant selected pursuant to this subsection unless

1 the Commission determines that the applicant is
2 qualified pursuant to subsection (a) and sections
3 308(b) and 310. Consistent with the objectives de-
4 scribed in paragraph (3), the Commission shall, by
5 rule, prescribe expedited procedures consistent with
6 the procedures authorized by subsection (i)(2) for
7 the resolution of any substantial and material issues
8 of fact concerning qualifications.

9 “(6) RULES OF CONSTRUCTION.—Nothing in
10 this subsection, or in the use of competitive bidding,
11 shall—

12 “(A) limit or otherwise affect the require-
13 ments of subsection (h) of this section, section
14 301, 304, 307, 310, or 706, or any other provi-
15 sion of this Act (other than subsections (d)(2)
16 and (e) of this section);

17 “(B) be construed to convey any rights, in-
18 cluding any expectation of renewal of a license,
19 that differ from the rights that apply to other
20 licenses within the same service that were not
21 issued pursuant to this subsection; or

22 “(C) be construed to prohibit the Commis-
23 sion from issuing nationwide licenses or per-
24 mits.

1 “(7) LIMITATION OF EFFECT ON ALLOCATION
2 DECISIONS.—In making a decision pursuant to sec-
3 tion 303(c) to assign a band of frequencies to a use
4 for which licenses or permits will be issued pursuant
5 to this subsection, and in prescribing regulations
6 pursuant to paragraph (4)(A) and (4)(C) of this
7 subsection, the Commission may not base a finding
8 of public interest, convenience, and necessity solely
9 or predominantly on the expectation of Federal reve-
10 nues from the use of a system of competitive bidding
11 under this subsection.

12 “(8) TREATMENT OF REVENUES.—All proceeds
13 from the use of a competitive bidding system under
14 this subsection shall be deposited in the Treasury in
15 accordance with chapter 33 of title 31, United
16 States Code. A license or permit issued by the Com-
17 mission under this section shall not be treated as the
18 property of the licensee for tax purposes by any
19 State or local government entity.

20 “(9) TERMINATION; EVALUATION.—The author-
21 ity of the Commission to grant a license or permit
22 under this subsection shall expire September 30,
23 1998. Not later than September 30, 1997, the Com-
24 mission shall conduct a public inquiry and submit to
25 the Congress a report—

1 “(A) describing the methodologies estab-
2 lished by the Commission pursuant to para-
3 graphs (3) and (4);

4 “(B) comparing the relative advantages
5 and disadvantages of such methodologies in
6 terms of attaining the objectives described in
7 such paragraphs;

8 “(C) evaluating the extent to which such
9 methodologies have secured prompt delivery of
10 service to rural areas; and

11 “(D) containing a statement of the reve-
12 nues obtained, and a projection of the future
13 revenues, from the use of competitive bidding
14 systems under this subsection.”.

15 **SEC. 5204. CONFORMING AMENDMENTS.**

16 Section 309 of the Communications Act of 1934 is
17 further amended—

18 (1) by striking subsection (i)(1) and inserting
19 the following:

20 “(i) RANDOM SELECTION.—

21 “(1) GENERAL AUTHORITY.—If—

22 “(A) there is more than one application for
23 any initial license or construction permit which
24 will involve a use of the electromagnetic spec-
25 trum; and

1 “(B) the Commission has determined that
2 the use is not described in subsection (j)(2)(A);
3 then the Commission shall have the authority to
4 grant such license or permit to a qualified applicant
5 through the use of a system of random selection.”;

6 (2) in paragraph (2)—

7 (A) by indenting paragraph (2), including
8 subparagraphs (A) through (C), by an addi-
9 tional 2 em spaces; and

10 (B) by inserting “DETERMINATIONS OF
11 QUALIFICATIONS.—” after “(2)”;

12 (3) in paragraph (3)—

13 (A) by indenting subparagraphs (A) and
14 (B), and so much of subparagraph (C) as pre-
15 cedes clause (i), by an additional 2 em spaces;

16 (B) by indenting clauses (i) and (ii) of sub-
17 paragraph (C) by an additional 4 em spaces;
18 and

19 (C) by inserting “PREFERENCES; DIVER-
20 SITY.—” after “(3)”;

21 (4) in paragraph (4)—

22 (A) by indenting subparagraphs (A) and
23 (B) of such paragraph by an additional 2 em
24 spaces;

1 (B) by inserting “RULEMAKING SCHEDULE
2 AND AUTHORITY.—” after “(4)”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(C) Not later than 180 days after the date of
6 enactment of this subparagraph, the Commission
7 shall prescribe such transfer disclosures and
8 antitrafficking restrictions and payment schedules as
9 are necessary to prevent the unjust enrichment of
10 recipients of licenses or permits as a result of the
11 methods employed to issue licenses under this sub-
12 section.”.

13 **SEC. 5205. REGULATORY PARITY.**

14 (a) AMENDMENT.—Section 332 of the Communica-
15 tions Act of 1934 (47 U.S.C. 332) is amended—

16 (1) by striking “PRIVATE LAND” from the head-
17 ing of the section; and

18 (2) by amending striking subsection (c) and in-
19 serting the following:

20 “(c) REGULATORY TREATMENT OF MOBILE SERV-
21 ICES.—

22 “(1) COMMON CARRIER TREATMENT OF COM-
23 MERCIAL MOBILE SERVICES.—(A) A person engaged
24 in the provision of commercial mobile services shall,
25 insofar as such person is so engaged, be treated as

1 a common carrier for purposes of this Act, except
2 for such provisions of title II as the Commission
3 may, consistent with the public interest, specify as
4 inapplicable by rule. In prescribing any such rule,
5 the Commission may not specify section 201, 202, or
6 208, or any other provision that the Commission de-
7 termines to be necessary in order to ensure that the
8 charges, practices, classifications, or regulations for
9 or in connection with commercial mobile services are
10 just and reasonable and are not unjustly or unrea-
11 sonably discriminatory or is otherwise in the public
12 interest.

13 “(B) Upon reasonable request of any person
14 providing commercial mobile service, the Commission
15 shall order a common carrier to establish physical
16 connections with such service pursuant to the provi-
17 sions of section 201 of this Act. Except to the extent
18 that the Commission is required to respond to such
19 a request, this subparagraph shall not be construed
20 as a limitation or expansion of the Commission’s au-
21 thority to order interconnection pursuant to this
22 Act.

23 “(2) NONCOMMON CARRIER TREATMENT OF
24 PRIVATE LAND MOBILE SERVICES.—A person en-
25 gaged in private land mobile service shall not, inso-

1 far as such person is so engaged, be treated as a
2 common carrier for any purpose under this Act. A
3 common carrier (other than a person that was treat-
4 ed as provider of private land mobile services prior
5 to the enactment of the Licensing Improvement Act
6 of 1993) shall not provide any dispatch service on
7 any frequency allocated for common carrier service,
8 except to the extent such dispatch service is provided
9 on stations licensed in the domestic public land mo-
10 bile radio service before January 1, 1982. The Com-
11 mission may by regulation terminate, in whole or in
12 part, the prohibition contained in the preceding sen-
13 tence if the Commission determines that such termi-
14 nation will serve the public interest.

15 “(3) STATE AUTHORITY TO REGULATE.—(A)
16 Notwithstanding sections 2(b) and 221(b), no State
17 or local government shall have any authority to im-
18 pose any rate or entry regulation upon any commer-
19 cial mobile service or any private land mobile service,
20 except that this paragraph shall not prohibit a State
21 from regulating the other terms and conditions of
22 commercial mobile services.

23 “(B) Notwithstanding subparagraph (A), a
24 State may petition the Commission for authority to
25 regulate the rates for any commercial mobile service

1 and the Commission shall grant such petition if such
2 State demonstrates that (i) such service is a sub-
3 stitute for land line telephone exchange service for a
4 substantial portion of the public within such State,
5 or (ii) market conditions with respect to such serv-
6 ices fail to protect subscribers adequately from un-
7 just and unreasonable rates or rates that are un-
8 justly or unreasonably discriminatory. The Commis-
9 sion shall provide reasonable opportunity for public
10 comment in response to such petition, and shall,
11 within 9 months after the date of its submission,
12 grant or deny such petition. If the Commission
13 grants such petition, the Commission shall authorize
14 the State to exercise under State law such authority
15 over rates, for such periods of time, as the Commis-
16 sion deems necessary to ensure that such rates are
17 just and reasonable and not unjustly or unreason-
18 ably discriminatory.

19 “(4) REGULATORY TREATMENT OF COMMU-
20 NICATIONS SATELLITE CORPORATION.—Nothing in
21 this subsection shall be construed to alter or affect
22 the regulatory treatment required by title IV of the
23 Communications Satellite of 1962 of the corporation
24 authorized by title III of such Act.

25 “(d) DEFINITIONS.—For purposes of this section—

1 “(1) the term ‘commercial mobile service’
2 means all mobile services (as defined in section 3(n))
3 that—

4 “(A) are provided for profit (i) to the pub-
5 lic, (ii) on an indiscriminate basis, or (iii) to
6 such broad classes of eligible users as to be ef-
7 fectively available to a substantial portion of the
8 public; and

9 “(B) are interconnected (or have requested
10 interconnection pursuant to paragraph (1)(B))
11 with the public switched network (as such terms
12 are defined by regulation by the Commission);
13 and

14 “(2) the term ‘private mobile service’ means
15 any mobile service (as defined in section 3(n)) that
16 is not a commercial mobile service.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) AMENDMENTS TO DEFINITIONS.—Section 3
19 of the Communications Act of 1934 (47 U.S.C. 153)
20 is amended—

21 (A) in subsection (n)—

22 (i) by inserting “(1)” after “and in-
23 cludes”; and

24 (ii) by inserting before the period at
25 the end the following: “, (2) a mobile serv-

1 ice which provides a regularly interacting
2 group of base, mobile, portable, and associ-
3 ated control and relay stations (whether li-
4 censed on an individual, cooperative, or
5 multiple basis) for private one-way or two-
6 way land mobile radio communications by
7 eligible users over designated areas of op-
8 eration, and (3) any service for which a li-
9 cense is required in a personal communica-
10 tions service established pursuant to the
11 proceeding entitled ‘Amendment of the
12 Commission’s Rules to Establish New Per-
13 sonal Communications Services’ (GEN
14 Docket No. 90–314; ET Docket No. 92–
15 100), or any successor proceeding’; and
16 (B) by striking subsection (gg).

17 (2) CONFORMING AMENDMENTS TO SECTION
18 332.—Section 332 of such Act is further amended—

19 (A) in subsection (a), by inserting after
20 “(a)” the following: “MANAGEMENT OF PRI-
21 VATE LAND MOBILE FREQUENCIES.—”;

22 (B) in subsection (b)—

23 (i) by indenting the margin of para-
24 graphs (2) through (4) by 2 em spaces;

1 (ii) by striking “(b)(1)” and inserting
2 the following:

3 “(b) USE OF ADVISORY COMMITTEE.—

4 “(1) COORDINATION OF FREQUENCY ASSIGN-
5 MENT.—”;

6 (iii) by inserting “EXEMPTION.—”
7 after “(2)”;

8 (iv) by inserting “NONEMPLOYEE
9 STATUS.—” after “(3)”;

10 (v) by inserting “APPLICATION OF
11 FEDERAL ADVISORY COMMITTEE ACT.—”
12 after “(4).”

13 **SEC. 5206. EFFECTIVE DATES; DEADLINES FOR COMMIS-**
14 **SION ACTION.**

15 (a) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this chapter are
18 effective on the date of enactment of this Act.

19 (2) EFFECTIVE DATE OF MOBILE SERVICE
20 AMENDMENTS.—The amendments made by section
21 5205 shall be effective 1 year after such date of en-
22 actment, except that any person that provides pri-
23 vate land mobile services before such date of enact-
24 ment shall continue to be treated as a provider of

1 private land mobile service until 3 years after such
2 date of enactment.

3 (b) DEADLINES FOR COMMISSION ACTION.—

4 (1) GENERAL RULEMAKING.—The Federal
5 Communications Commission shall prescribe rules to
6 implement section 309(j) of the Communications Act
7 of 1934 (as added by this chapter) within 210 days
8 after the date of enactment of this Act.

9 (2) PCS ORDERS AND LICENSING.—The Com-
10 mission shall—

11 (A) within 180 days after such date of en-
12 actment, issue a final report and order (i) in
13 the matter entitled “Redevelopment of Spec-
14 trum to Encourage Innovation in the Use of
15 New Telecommunications Technologies” (ET
16 Docket No. 92–9); and (ii) in the matter enti-
17 tled “Amendment of the Commission’s Rules to
18 Establish New Personal Communications Serv-
19 ices” (GEN Docket No. 90–314; ET Docket
20 No. 92–100); and

21 (B) within 270 days after such date of en-
22 actment, commence issuing licenses and permits
23 in the personal communications service.

24 (3) MOBILE SERVICE RULEMAKING RE-
25 QUIRED.—Within 1 year after the date of enactment

1 of this Act, the Federal Communications Commis-
2 sion shall—

3 (A) issue such modifications or termi-
4 nations of its regulations concerning private
5 land mobile services as are necessary to imple-
6 ment the amendments made by section 5205;

7 (B) make such other modifications of such
8 regulations as may be necessary to equalize the
9 regulatory treatment of providers of all com-
10 mercial mobile services that offer services that
11 are substantially similar; and

12 (C) include in such modifications and ter-
13 minations such provisions as are necessary to
14 provide for an orderly transition to the regu-
15 latory treatment required by such amendments.

16 (c) SPECIAL RULE.—The Federal Communications
17 Commission shall not issue any license or permit pursuant
18 to section 309(i) of the Communications Act of 1934 after
19 the date of enactment of this Act unless the Commission
20 has made the determination required by paragraph (1)(B)
21 of such section (as added by this chapter).

1 **CHAPTER 2—EMERGING**
2 **TELECOMMUNICATIONS TECHNOLOGIES**

3 **SEC. 5221. SHORT TITLE.**

4 This chapter may be cited as the “Emerging Tele-
5 communications Technologies Act of 1993”.

6 **SEC. 5222. AMENDMENT TO THE NATIONAL TELECOMMUNI-**
7 **CATIONS AND INFORMATION ADMINISTRA-**
8 **TION ORGANIZATION ACT.**

9 The National Telecommunications and Information
10 Administration Organization Act is amended—

11 (1) by striking the heading of part B and in-
12 serting the following:

13 **“PART D—SPECIAL AND TEMPORARY**
14 **PROVISIONS”;**

15 (2) by redesignating sections 131 through 135
16 as sections 151 through 155, respectively; and

17 (3) by inserting after part A the following new
18 part:

19 **“PART B—EMERGING TELECOMMUNICATIONS**
20 **TECHNOLOGIES**

21 **“SEC. 111. FINDINGS.**

22 “The Congress finds that—

23 “(1) the Federal Government currently reserves
24 for its own use, or has priority of access to, approxi-
25 mately 40 percent of the electromagnetic spectrum

1 that is assigned for use pursuant to the Communica-
2 tions Act of 1934;

3 “(2) many of such frequencies are underutilized
4 by Federal Government licensees;

5 “(3) the public interest requires that many of
6 such frequencies be utilized more efficiently by Fed-
7 eral Government and non-Federal licensees;

8 “(4) additional frequencies are assigned for
9 services that could be obtained more efficiently from
10 commercial carriers or other vendors;

11 “(5) scarcity of assignable frequencies for li-
12 censing by the Commission can and will—

13 “(A) impede the development and commer-
14 cialization of new telecommunications products
15 and services;

16 “(B) limit the capacity and efficiency of
17 the United States telecommunications systems;

18 “(C) prevent some State and local police,
19 fire, and emergency services from obtaining
20 urgently needed radio channels; and

21 “(D) adversely affect the productive capac-
22 ity and international competitiveness of the
23 United States economy;

24 “(6) a reassignment of these frequencies can
25 produce significant economic returns; and

1 “(7) the Secretary of Commerce, the President,
2 and the Federal Communications Commission should
3 be directed to take appropriate steps to correct these
4 deficiencies.

5 **“SEC. 112. NATIONAL SPECTRUM PLANNING.**

6 “(a) PLANNING ACTIVITIES.—The Assistant Sec-
7 retary and the Chairman of the Commission shall meet,
8 at least biannually, to conduct joint spectrum planning
9 with respect to the following issues—

10 “(1) the future spectrum requirements for pub-
11 lic and private uses, including State and local gov-
12 ernment public safety agencies;

13 “(2) the spectrum allocation actions necessary
14 to accommodate those uses; and

15 “(3) actions necessary to promote the efficient
16 use of the spectrum, including spectrum manage-
17 ment techniques to promote increased shared use of
18 the spectrum that does not cause harmful inter-
19 ference as a means of increasing commercial access.

20 “(b) REPORTS.—The Assistant Secretary and the
21 Chairman of the Commission shall submit a joint annual
22 report to the Committee on Energy and Commerce of the
23 House of Representatives, the Committee on Commerce,
24 Science, and Transportation of the Senate, the Secretary,
25 and the Commission on the joint spectrum planning activi-

1 ties conducted under subsection (a) and recommendations
2 for action developed pursuant to such activities.

3 “(c) REPORTING REQUIREMENTS.—The first annual
4 report submitted after the date of the report by the advi-
5 sory committee under section 113(d)(4) shall—

6 “(1) include an analysis of and response to that
7 committee report; and

8 “(2) include an analysis of the effect on spec-
9 trum efficiency and the cost of equipment to Federal
10 spectrum users of maintaining separate allocations
11 for Federal Government and non-Federal Govern-
12 ment licensees for the same or similar services.

13 **“SEC. 113. IDENTIFICATION OF REALLOCABLE FRE-**
14 **QUENCIES.**

15 “(a) IDENTIFICATION REQUIRED.—The Secretary
16 shall, within 24 months after the date of the enactment
17 of this part, prepare and submit to the President and the
18 Congress a report identifying bands of frequencies that—

19 “(1) are allocated on a primary basis for Fed-
20 eral Government use and eligible for licensing pursu-
21 ant to section 305(a) of the Act (47 U.S.C. 305(a));

22 “(2) are not required for the present or identifi-
23 able future needs of the Federal Government;

24 “(3) can feasibly be made available, as of the
25 date of submission of the report or at any time dur-

1 ing the next 15 years, for use under the Act (other
2 than for Federal Government stations under such
3 section 305);

4 “(4) will not result in costs to the Federal Gov-
5 ernment, or losses of services or benefits to the pub-
6 lic, that are excessive in relation to the benefits that
7 may be obtained by non-Federal licensees; and

8 “(5) are most likely to have the greatest poten-
9 tial for productive uses and public benefits under the
10 Act.

11 “(b) MINIMUM AMOUNT OF SPECTRUM REC-
12 OMMENDED.—

13 “(1) IN GENERAL.—Based on the report re-
14 quired by subsection (a), the Secretary shall rec-
15 ommend for reallocation, for use other than by Fed-
16 eral Government stations under section 305 of the
17 Act (47 U.S.C. 305), bands of frequencies that span
18 a total of not less than 200 megahertz, that are lo-
19 cated below 6 gigahertz, and that meet the criteria
20 specified in paragraphs (1) through (4) of subsection
21 (a). The Secretary may not include, in such 200
22 megahertz, bands of frequencies that span more
23 than 20 megahertz and that are located between 5
24 and 6 gigahertz. If the report identifies (as meeting
25 such criteria) bands of frequencies spanning more

1 than 200 megahertz, the report shall identify and
2 recommend for reallocation those bands (spanning
3 not less than 200 megahertz) that meet the criteria
4 specified in paragraph (5) of such subsection.

5 “(2) MIXED USES PERMITTED TO BE COUNT-
6 ED.—Bands of frequencies which the Secretary’s re-
7 port recommends be partially retained for use by
8 Federal Government stations, but which are also
9 recommended to be reallocated to be made available
10 under the Act for use by non-Federal stations, may
11 be counted toward the minimum spectrum required
12 by paragraph (1) of this subsection, except that—

13 “(A) the bands of frequencies counted
14 under this paragraph may not count toward
15 more than one-half of the minimum required by
16 paragraph (1) of this subsection;

17 “(B) a band of frequencies may not be
18 counted under this paragraph unless the assign-
19 ments of the band to Federal Government sta-
20 tions under section 305 of the Act (47 U.S.C.
21 305) are limited by geographic area, by time, or
22 by other means so as to guarantee that the po-
23 tential use to be made by such Federal Govern-
24 ment stations is substantially less (as measured
25 by geographic area, time, or otherwise) than the

1 potential use to be made by non-Federal
2 stations; and

3 “(C) the operational sharing permitted
4 under this paragraph shall be subject to coordi-
5 nation procedures which the Commission shall
6 establish and implement to ensure against
7 harmful interference.

8 “(c) CRITERIA FOR IDENTIFICATION.—

9 “(1) NEEDS OF THE FEDERAL GOVERNMENT.—

10 In determining whether a band of frequencies meets
11 the criteria specified in subsection (a)(2), the Sec-
12 retary shall—

13 “(A) consider whether the band of fre-
14 quencies is used to provide a communications
15 service that is or could be available from a com-
16 mercial carrier or other vendor;

17 “(B) seek to promote—

18 “(i) the maximum practicable reliance
19 on commercially available substitutes;

20 “(ii) the sharing of frequencies (as
21 permitted under subsection (b)(2));

22 “(iii) the development and use of new
23 communications technologies; and

24 “(iv) the use of nonradiating commu-
25 nications systems where practicable; and

1 “(C) seek to avoid—

2 “(i) serious degradation of Federal
3 Government services and operations; and

4 “(ii) excessive costs to the Federal
5 Government and users of Federal Govern-
6 ment services.

7 “(2) FEASIBILITY OF USE.—In determining
8 whether a frequency band meets the criteria speci-
9 fied in subsection (a)(3), the Secretary shall—

10 “(A) assume such frequencies will be as-
11 signed by the Commission under section 303 of
12 the Act (47 U.S.C. 303) over the course of not
13 less than 15 years;

14 “(B) assume reasonable rates of scientific
15 progress and growth of demand for tele-
16 communications services;

17 “(C) determine the extent to which the
18 reallocation or reassignment will relieve actual
19 or potential scarcity of frequencies available for
20 licensing by the Commission for non-Federal
21 use;

22 “(D) seek to include frequencies which can
23 be used to stimulate the development of new
24 technologies; and

1 “(E) consider the immediate and recurring
2 costs to reestablish services displaced by the
3 reallocation of spectrum.

4 “(3) ANALYSIS OF BENEFITS.—In determining
5 whether a band of frequencies meets the criteria
6 specified in subsection (a)(4), the Secretary shall
7 consider—

8 “(A) the extent to which equipment is or
9 will be available that is capable of utilizing the
10 band;

11 “(B) the proximity of frequencies that are
12 already assigned for commercial or other non-
13 Federal use; and

14 “(C) the activities of foreign governments
15 in making frequencies available for experimen-
16 tation or commercial assignments in order to
17 support their domestic manufacturers of equip-
18 ment.

19 “(4) POWER AGENCY FREQUENCIES.—

20 “(A) ELIGIBLE FOR MIXED USE ONLY.—
21 The frequencies assigned to any Federal power
22 agency may only be eligible for mixed use under
23 subsection (b)(2) in geographically separate
24 areas and shall not be recommended for the
25 purposes of withdrawing that assignment. In

1 any case where a frequency is to be shared by
2 an affected Federal power agency and a non-
3 Federal user, such use by the non-Federal user
4 shall, consistent with the procedures established
5 under subsection (b)(2)(C), not cause harmful
6 interference to the affected Federal power agen-
7 cy or adversely affect the reliability of its power
8 system.

9 “(B) DEFINITION.—As used in this para-
10 graph, the term ‘Federal power agency’ means
11 the Tennessee Valley Authority, the Bonneville
12 Power Administration, the Western Area Power
13 Administration, or the Southwestern Power
14 Administration.

15 “(d) PROCEDURE FOR IDENTIFICATION OF
16 REALLOCABLE BANDS OF FREQUENCIES.—

17 “(1) SUBMISSION OF PRELIMINARY IDENTIFICA-
18 TION TO CONGRESS.—Within 12 months after the
19 date of the enactment of this part, the Secretary
20 shall prepare and submit to the Congress a report
21 which makes a preliminary identification of
22 reallocable bands of frequencies which meet the cri-
23 teria established by this section.

24 “(2) CONVENING OF ADVISORY COMMITTEE.—
25 Not later than the date the Secretary submits the

1 report required by paragraph (1), the Secretary shall
2 convene an advisory committee to—

3 “(A) review the bands of frequencies iden-
4 tified in such report;

5 “(B) advise the Secretary with respect to
6 (i) the bands of frequencies which should be in-
7 cluded in the final report required by subsection
8 (a), and (ii) the effective dates which should be
9 established under subsection (e) with respect to
10 such frequencies;

11 “(C) receive public comment on the Sec-
12 retary’s report and on the final report; and

13 “(D) prepare and submit the report re-
14 quired by paragraph (4).

15 The advisory committee shall meet at least monthly
16 until each of the actions required by section 114(a)
17 have taken place.

18 “(3) COMPOSITION OF COMMITTEE; CHAIR-
19 MAN.—The advisory committee shall include—

20 “(A) the Chairman of the Commission and
21 the Assistant Secretary, and one other rep-
22 resentative of the Federal Government as des-
23 igned by the Secretary; and

24 “(B) representatives of—

1 “(i) United States manufacturers of
2 spectrum-dependent telecommunications
3 equipment;

4 “(ii) commercial carriers;

5 “(iii) other users of the electro-
6 magnetic spectrum, including radio and
7 television broadcast licensees, State and
8 local public safety agencies, and the avia-
9 tion industry; and

10 “(iv) other interested members of the
11 public who are knowledgeable about the
12 uses of the electromagnetic spectrum.

13 A majority of the members of the committee shall be
14 members described in subparagraph (B), and one of
15 such members shall be designated as chairman by
16 the Secretary.

17 “(4) RECOMMENDATIONS ON SPECTRUM ALLO-
18 CATION PROCEDURES.—The advisory committee
19 shall, not later than 36 months after the date of the
20 enactment of this part, submit to the Secretary, the
21 Commission, the Committee on Energy and Com-
22 merce of the House of Representatives, and the
23 Committee on Commerce, Science, and Transpor-
24 tation of the Senate, a report containing such rec-
25 ommendations as the advisory committee considers

1 appropriate for the reform of the process of allocat-
2 ing the electromagnetic spectrum between Federal
3 and non-Federal use, and any dissenting views
4 thereon.

5 “(e) TIMETABLE FOR REALLOCATION AND LIMITA-
6 TION.—

7 “(1) TIMETABLE REQUIRED.—The Secretary
8 shall, as part of the report required by subsection
9 (a), include a timetable that recommends immediate
10 and delayed effective dates by which the President
11 shall withdraw or limit assignments on the fre-
12 quencies specified in the report.

13 “(2) EXPEDITED REALLOCATION OF INITIAL 30
14 MHZ PERMITTED.—The Secretary may prepare and
15 submit to the President a report which specifically
16 identifies an initial 30 megahertz of spectrum that
17 meets the criteria described in subsection (a) and
18 that can be made available for reallocation imme-
19 diately upon issuance of the report required by this
20 section.

21 “(3) DELAYED EFFECTIVE DATE.—The rec-
22 ommended delayed effective dates shall—

23 “(A) permit the earliest possible
24 reallocation of the frequency bands, taking into
25 account the requirements of section 115(1);

1 “(B) be based on the useful remaining life
2 of equipment that has been purchased or con-
3 tracted for to operate on identified frequencies;

4 “(C) be based on the need to coordinate
5 frequency use with other nations; and

6 “(D) take into account the relationship be-
7 tween the costs to the Federal Government of
8 changing to different frequencies and the bene-
9 fits that may be obtained from commercial and
10 other non-Federal uses of the reassigned fre-
11 quencies.

12 **“SEC. 114. WITHDRAWAL OF ASSIGNMENT TO FEDERAL**
13 **GOVERNMENT STATIONS.**

14 “(a) IN GENERAL.—The President shall—

15 “(1) within 6 months after receipt of the Sec-
16 retary’s report under section 113(a), withdraw the
17 assignment to a Federal Government station of any
18 frequency which the report recommends for imme-
19 diate reallocation;

20 “(2) within such 6-month period, limit the as-
21 signment to a Federal Government station of any
22 frequency which the report recommends be made im-
23 mediately available for mixed use under section
24 113(b)(2);

1 “(3) by the delayed effective date recommended
2 by the Secretary under section 113(e) (except as
3 provided in subsection (b)(4) of this section), with-
4 draw or limit the assignment to a Federal Govern-
5 ment station of any frequency which the report rec-
6 ommends be reallocated or made available for mixed
7 use on such delayed effective date;

8 “(4) assign or reassign other frequencies to
9 Federal Government stations as necessary to adjust
10 to such withdrawal or limitation of assignments; and

11 “(5) transmit a notice and description to the
12 Commission and each House of Congress of the
13 actions taken under this subsection.

14 “(b) EXCEPTIONS.—

15 “(1) AUTHORITY TO SUBSTITUTE.—If the
16 President determines that a circumstance described
17 in paragraph (2) exists, the President—

18 “(A) may substitute an alternative fre-
19 quency or band of frequencies for the frequency
20 or band that is subject to such determination
21 and withdraw (or limit) the assignment of that
22 alternative frequency or band in the manner re-
23 quired by subsection (a); and

24 “(B) shall submit a statement of the rea-
25 sons for taking the action described in subpara-

1 graph (A) to the Committee on Energy and
2 Commerce of the House of Representatives and
3 the Committee on Commerce, Science, and
4 Transportation of the Senate.

5 “(2) GROUNDS FOR SUBSTITUTION.—For pur-
6 poses of paragraph (1), the following circumstances
7 are described in this paragraph:

8 “(A) the reassignment would seriously
9 jeopardize the national defense interests of the
10 United States;

11 “(B) the frequency proposed for reassign-
12 ment is uniquely suited to meeting important
13 governmental needs;

14 “(C) the reassignment would seriously
15 jeopardize public health or safety; or

16 “(D) the reassignment will result in costs
17 to the Federal Government that are excessive in
18 relation to the benefits that may be obtained
19 from commercial or other non-Federal uses of
20 the reassigned frequency.

21 “(3) CRITERIA FOR SUBSTITUTED FRE-
22 QUENCIES.—For purposes of paragraph (1), a fre-
23 quency may not be substituted for a frequency iden-
24 tified by the report of the Secretary under section

1 113(a) unless the substituted frequency also meets
2 each of the criteria specified by section 113(a).

3 “(4) DELAYS IN IMPLEMENTATION.—If the
4 President determines that any action cannot be com-
5 pleted by the delayed effective date recommended by
6 the Secretary pursuant to section 113(e), or that
7 such an action by such date would result in a fre-
8 quency being unused as a consequence of the Com-
9 mission’s plan under section 115, the President
10 may—

11 “(A) withdraw or limit the assignment to
12 Federal Government stations on a later date
13 that is consistent with such plan, except that
14 the President shall notify each committee speci-
15 fied in paragraph (1)(B) and the Commission
16 of the reason that withdrawal or limitation at
17 a later date is required; or

18 “(B) substitute alternative frequencies pur-
19 suant to the provisions of this subsection.

20 “(c) LIMITATION ON DELEGATION.—Notwithstand-
21 ing any other provision of law, the authorities and duties
22 established by this section may not be delegated.

1 **“SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COM-**
2 **MISSION.**

3 “Not later than 1 year after the President notifies
4 the Commission pursuant to section 114(a)(5), the Com-
5 mission shall prepare, in consultation with the Assistant
6 Secretary when necessary, and submit to the President
7 and the Congress, a plan for the distribution under the
8 Act of the frequency bands reallocated pursuant to the
9 requirements of this part. Such plan shall—

10 “(1) not propose the immediate distribution of
11 all such frequencies, but, taking into account the
12 timetable recommended by the Secretary pursuant to
13 section 113(e), shall propose—

14 “(A) gradually to distribute the frequencies
15 remaining, after making the reservation re-
16 quired by subparagraph (B), over the course of
17 a period of not less than 10 years beginning on
18 the date of submission of such plan; and

19 “(B) to reserve a significant portion of
20 such frequencies for distribution beginning after
21 the end of such 10-year period;

22 “(2) contain appropriate provisions to ensure—

23 “(A) the availability of frequencies for new
24 technologies and services in accordance with the
25 policies of section 7 of the Act (47 U.S.C. 157);
26 and

1 “(B) the availability of frequencies to stim-
2 ulate the development of such technologies;

3 “(3) address (A) the feasibility of reallocating
4 spectrum from current commercial and other non-
5 Federal uses to provide for more efficient use of the
6 spectrum, and (B) innovation and marketplace de-
7 velopments that may affect the relative efficiencies
8 of different spectrum allocations; and

9 “(4) not prevent the Commission from allocat-
10 ing bands of frequencies for specific uses in future
11 rulemaking proceedings.

12 **“SEC. 116. AUTHORITY TO RECOVER REASSIGNED FRE-**
13 **QUENCIES.**

14 “(a) **AUTHORITY OF PRESIDENT.**—Subsequent to the
15 withdrawal of assignment to Federal Government stations
16 pursuant to section 114, the President may reclaim reas-
17 signed frequencies for reassignment to Federal Govern-
18 ment stations in accordance with this section.

19 “(b) **PROCEDURE FOR RECLAIMING FRE-**
20 **QUENCIES.**—

21 “(1) **UNALLOCATED FREQUENCIES.**—If the fre-
22 quencies to be reclaimed have not been allocated or
23 assigned by the Commission pursuant to the Act,
24 the President shall follow the procedures for substi-

1 tution of frequencies established by section 114(b) of
2 this part.

3 “(2) ALLOCATED FREQUENCIES.—If the fre-
4 quencies to be reclaimed have been allocated or as-
5 signed by the Commission, the President shall follow
6 the procedures for substitution of frequencies estab-
7 lished by section 114(b) of this part, except that the
8 notification required by section 114(b)(1)(A) shall
9 include—

10 “(A) a timetable to accommodate an or-
11 derly transition for licensees to obtain new fre-
12 quencies and equipment necessary for its utili-
13 zation; and

14 “(B) an estimate of the cost of displacing
15 spectrum users licensed by the Commission.

16 “(c) COSTS OF RECLAIMING FREQUENCIES; APPRO-
17 PRIATIONS AUTHORIZED.—The Federal Government shall
18 bear all costs of reclaiming frequencies pursuant to this
19 section, including the cost of equipment which is rendered
20 unusable, the cost of relocating operations to a different
21 frequency band, and any other costs that are directly at-
22 tributable to the reclaiming of the frequency pursuant to
23 this section. There are authorized to be appropriated such
24 sums as may be necessary to carry out the purposes of
25 this section.

1 “(d) EFFECTIVE DATE OF RECLAIMED FRE-
2 QUENCIES.—The Commission shall not withdraw licenses
3 for any reclaimed frequencies until the end of the fiscal
4 year following the fiscal year in which the President’s noti-
5 fication is received.

6 “(e) EFFECT ON OTHER LAW.—Nothing in this sec-
7 tion shall be construed to limit or otherwise affect the au-
8 thority of the President under sections 305 and 706 of
9 the Act (47 U.S.C. 305, 606).

10 **“SEC. 117. DEFINITIONS.**

11 “As used in this part:

12 “(1) The term ‘allocation’ means an entry in
13 the National Table of Frequency Allocations of a
14 given frequency band for the purpose of its use by
15 one or more radiocommunication services.

16 “(2) The term ‘assignment’ means an author-
17 ization given to a station licensee to use specific fre-
18 quencies or channels.

19 “(3) The term ‘commercial carrier’ means any
20 entity that uses a facility licensed by the Federal
21 Communications Commission pursuant to the Com-
22 munications Act of 1934 for hire or for its own use,
23 but does not include Federal Government stations
24 licensed pursuant to section 305 of the Act (47
25 U.S.C. 305).

1 “(4) The term ‘the Act’ means the Communica-
2 tions Act of 1934 (47 U.S.C. 151 et seq.).”.

3 **CHAPTER 3—COMMUNICATIONS**

4 **TECHNICAL AMENDMENTS**

5 **SEC. 5241. CLERICAL CORRECTIONS.**

6 (a) AMENDMENTS TO THE COMMUNICATIONS ACT OF
7 1934.—The Communications Act of 1934 is amended—

8 (1) in section 4(f)(3), by striking “overtime ex-
9 ceeds beyond” and inserting “overtime extends be-
10 yond”;

11 (2) in section 5, by redesignating subsection (f)
12 as subsection (e);

13 (3) in section 220(b), by striking “clasess” and
14 inserting “classes”;

15 (4) in section 223(b)(3), by striking “defendant
16 restrict access” and inserting “defendant restricted
17 access”;

18 (5) in section 226(d), by striking paragraph (2)
19 and redesignating paragraphs (3) and (4) as para-
20 graphs (2) and (3), respectively;

21 (6) in section 227(e)(2), by striking “national
22 database” and inserting “national database”;

23 (7) in section 228(c)(6)(D), by striking “con-
24 servation” and inserting “conversation”;

1 (8) in section 308(c), by striking “May 24,
2 1921” and inserting “May 27, 1921”;

3 (9) in section 331, by amending the heading of
4 such section to read as follows:

5 “VERY HIGH FREQUENCY STATIONS AND AM RADIO
6 STATIONS”;

7 (10) in section 358, by striking “(a)”;

8 (11) in part III of title III—

9 (A) by inserting before section 381 the fol-
10 lowing heading:

11 “VESSELS TRANSPORTING MORE THAN SIX PASSENGERS
12 FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO
13 TELEPHONE”;

14 (B) by inserting before section 382 the fol-
15 lowing heading:

16 “VESSELS EXCEPTED FROM RADIO TELEPHONE
17 REQUIREMENT”;

18 (C) by inserting before section 383 the fol-
19 lowing heading:

20 “EXEMPTIONS BY COMMISSION”;

21 (D) by inserting before section 384 the fol-
22 lowing heading:

23 “AUTHORITY OF COMMISSION; OPERATIONS,
24 INSTALLATIONS, AND ADDITIONAL EQUIPMENT”;

25 (E) by inserting before section 385 the fol-
26 lowing heading:

1 “INSPECTIONS”; and

2 (F) by inserting before section 386 the fol-
3 lowing heading:

4 “FORFEITURES”;

5 (12) in section 410(c), by striking “, as referred
6 to in sections 202(b) and 205(f) of the Interstate
7 Commerce Act,”;

8 (13) in section 705(e)(3)(A), by striking “para-
9 graph (4) of subsection (d)” and inserting “para-
10 graph (4) of this subsection”;

11 (14) in section 705, by redesignating sub-
12 sections (f) and (g) (as added by Public Law 100-
13 667) as subsections (g) and (h); and

14 (15) in section 705(h) (as so redesignated), by
15 striking “subsection (f)” and inserting “subsection
16 (g)”.

17 (b) AMENDMENTS TO THE COMMUNICATIONS SAT-
18 ELLITE ACT OF 1962.—The Communications Satellite Act
19 of 1962 is amended—

20 (1) in section 303(a)—

21 (A) by striking “section 27(d)” and insert-
22 ing “section 327(d)”;

23 (B) by striking “sec. 29-911(d)” and in-
24 serting “sec. 29-327(d)”;

25 (C) by striking “section 36” and inserting
26 “section 336”; and

1 (D) by striking “sec. 29–916d” and insert-
2 ing “sec. 29–336(d)”;

3 (2) in section 304(d), by striking “paragraphs
4 (1), (2), (3), (4), and (5) of section 310(a)” and in-
5 serting “subsection (a) and paragraphs (1) through
6 (4) of subsection (b) of section 310”; and

7 (3) in section 304(e)—

8 (A) by striking “section 45(b)” and insert-
9 ing “section 345(b)”;

10 (B) by striking “sec. 29–920(b)” and in-
11 serting “sec. 29–345(b)”;

12 (4) in sections 502(b) and 503(a)(1), by strik-
13 ing “Communications Satellite Corporation” and in-
14 serting “communications satellite corporation estab-
15 lished pursuant to title III of this Act”.

16 (c) CONFORMING AMENDMENT.—Section 1253 of the
17 Omnibus Budget Reconciliation Act of 1981 is repealed.

18 **SEC. 5242. TRANSFER OF PROVISIONS OF LAW CONCERN-**
19 **ING PUBLIC TELECOMMUNICATIONS FACILI-**
20 **TIES, CHILDREN’S EDUCATIONAL TELE-**
21 **VISION, AND TELECOMMUNICATIONS DEM-**
22 **ONSTRATION PROGRAM.**

23 (a) AMENDMENTS.—The Communications Act of
24 1934 (hereinafter in this section referred to as “the 1934
25 Act”) and the National Telecommunications and Informa-

1 tion Administration Organization Act (hereinafter in this
2 section referred to as “the NTIAO Act”) are amended as
3 follows:

4 (1) The NTIAO Act is amended by inserting
5 after part B (as added by chapter 2 of this subtitle)
6 a new part C, the heading of which shall be as fol-
7 lows:

8 **“PART C—ASSISTANCE FOR PUBLIC TELE-**
9 **COMMUNICATIONS FACILITIES; CHILDREN’S**
10 **EDUCATIONAL TELEVISION; TELECOMMUNI-**
11 **CATIONS DEMONSTRATIONS”;**

12 (2) Sections 390, 391, 392, 393, 393A, 394,
13 and 395 of the 1934 Act are transferred to such
14 new part C of the NTIAO Act and are redesignated
15 as sections 121, 122, 123, 124, 125, 131, and 135,
16 respectively, of the NTIAO Act.

17 (3) Such new part C of the NTIAO Act is
18 amended—

19 (A) by inserting before section 121 the fol-
20 lowing:

21 **“Subpart 1—Assistance for Public**
22 **Telecommunications Facilities”** and;

23 (B) by inserting before section 131 the fol-
24 lowing:

1 **“Subpart 2—National Endowment for Children’s**
2 **Television”** and;

3 (C) by inserting before section 135 the fol-
4 lowing:

5 **“Subpart 3—Telecommunications Demonstrations”.**

6 (4) Section 125 of the NTIAO Act (as added
7 by paragraph (2) of this subsection) is amended by
8 striking “section 390” and inserting “section 121”.

9 (5) Each of such sections 121 through 135 is
10 amended so that the section designation and section
11 heading of each such shall be in the form and type-
12 face of the section designation and section heading
13 of this section.

14 (b) CONFORMING AMENDMENT TO COMMUNICATIONS
15 ACT OF 1934.—Part IV of title III of the 1934 Act is
16 amended by striking out subparts A, B, and C.

17 (c) REFERENCES IN OTHER LAWS AND DOCU-
18 MENTS.—Any reference to any section or other provision
19 of subpart A, B, or C of part IV of title III of the 1934
20 Act in any law, rule, regulation, certificate, directive, in-
21 struction, or other official paper in force on the date of
22 enactment of this section shall be deemed to refer to the
23 section or other provision of subpart 1, 2, or 3 of part
24 C of the NTIAO Act to which such section or other provi-
25 sion is transferred by this section.

1 **SEC. 5243. ELIMINATION OF EXPIRED AND OUTDATED PRO-**
2 **VISIONS.**

3 (a) AMENDMENTS TO THE COMMUNICATIONS ACT OF
4 1934.—The Communications Act of 1934 is amended—

5 (1) in section 7(b), by striking “or twelve
6 months after the date of the enactment of this sec-
7 tion, if later” both places it appears;

8 (2) in section 212, by striking “After sixty days
9 from the enactment of this Act it shall” and insert-
10 ing “It shall”;

11 (3) in section 213, by striking subsection (g)
12 and redesignating subsection (h) as subsection (g);

13 (4) in section 214(a), by striking “section 221
14 or 222” and inserting “section 221”;

15 (5) in section 220(b), by striking “, as soon as
16 practicable,”;

17 (6) in section 222—

18 (A) by striking paragraph (1) of subsection
19 (a);

20 (B) by redesignating paragraphs (2) and
21 (3) of such subsection as paragraphs (1) and
22 (2), respectively;

23 (C) by striking paragraph (2) of subsection
24 (b);

25 (D) by redesignating subsection (b)(1) as
26 subsection (b); and

1 (E) by striking subsections (c), (d), and
2 (e);

3 (7) in section 224(b)(2), by striking “Within
4 180 days from the date of enactment of this section
5 the Commission” and inserting “The Commission”;

6 (8) in 226(e)(1), by striking “, within 9 months
7 after the date of enactment of this section,”;

8 (9) in section 309(i)(4)(A), by striking “The
9 commission, not later than 180 days after the date
10 of the enactment of the Communications Technical
11 Amendments Act of 1982, shall,” and inserting
12 “The Commission shall,”;

13 (10) by striking section 328;

14 (11) in section 331(b), by striking the last sen-
15 tence;

16 (12) in section 413, by striking “, within sixty
17 days after the taking effect of this Act,”;

18 (13) in section 624(d)(2)—

19 (A) by striking out “(A)”;

20 (B) by inserting “of” after “restrict the
21 viewing”; and

22 (C) by striking subparagraph (B);

23 (14) by striking sections 702 and 703;

24 (15) in section 704—

1 (A) by striking subsections (b) and (d);
2 and

3 (B) by redesignating subsection (c) as sub-
4 section (b);

5 (16) in section 705(g) (as redesignated by sec-
6 tion 5211(15)), by striking “Within 6 months after
7 the date of enactment of the Satellite Home Viewer
8 Act of 1988, the Federal Communications Commis-
9 sion” and inserting “The Commission”;

10 (17) in section 710(f)—

11 (A) by striking the first and second sen-
12 tences; and

13 (B) in the third sentence, by striking
14 “Thereafter, the Commission” and inserting
15 “The Commission”;

16 (18) in section 712(a), by striking “, within
17 120 days after the effective date of the Satellite
18 Home Viewer Act of 1988,”; and

19 (19) by striking section 713.

20 (b) AMENDMENTS TO THE COMMUNICATIONS SAT-
21 ELLITE ACT OF 1962.—The Communications Satellite Act
22 of 1962 is amended—

23 (1) in section 201(a)(1), by striking “as expedi-
24 tiously as possible,”;

1 (2) by striking sections 301 and 302 and insert-
2 ing the following:

3 **“SEC. 301. CREATION OF CORPORATION.**

4 “There is authorized to be created a communications
5 satellite corporation for profit which will not be an agency
6 or establishment of the United States Government.

7 **“SEC. 302. APPLICABLE LAWS.**

8 “‘The corporation shall be subject to the provisions
9 of this Act and, to the extent consistent with this Act,
10 to the District of Columbia Business Corporation Act. The
11 right to repeal, alter, or amend this Act at any time is
12 expressly reserved.’”;

13 (3) in section 304(a), by striking “at a price
14 not in excess of \$100 for each share and”;

15 (4) in section 404—

16 (A) by striking subsections (a) and (c);

17 and

18 (B) by striking “(b)” at the beginning of
19 subsection (b);

20 (5) in section 503—

21 (A) by striking paragraph (2) of subsection

22 (a); and

23 (B) by redesignating paragraph (3) of sub-
24 section (a) as paragraph (2) of such subsection;

25 (C) by striking subsection (b);

- 1 (D) in subsection (g)—
2 (i) by striking “subsection (c)(3)” and
3 inserting “subsection (b)(3)”; and
4 (ii) by striking the last sentence; and
5 (E) by redesignating subsections (c)
6 through (h) as subsections (b) through (g),
7 respectively;
8 (5) by striking sections 505, 506, and 507; and
9 (6) by redesignating section 508 as section 505.

10 **SEC. 5244. STYLISTIC CONSISTENCY.**

11 The Communications Act of 1934 and the Commu-
12 nications Satellite Act of 1962 are amended so that the
13 section designation and section heading of each section of
14 such Acts shall be in the form and typeface of the section
15 designation and heading of this section.

16 **Subtitle D—Energy Programs**

17 **SEC. 5301. NUCLEAR REGULATORY COMMISSION ANNUAL**
18 **CHARGES.**

19 Section 6101(a)(3) of the Omnibus Budget Reconcili-
20 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by
21 striking “September 30, 1995” and inserting “September
22 30, 1998”.

1 **TITLE VI—COMMITTEE ON**
2 **FOREIGN AFFAIRS**

3 In order to implement its reconciliation instructions,
4 the Committee on Foreign Affairs recommends changes
5 in law that are also recommended by the Committee on
6 Post Office and Civil Service. These changes in law, which
7 are contained in title X of this Act, would reduce direct
8 spending under the Foreign Service Retirement and Dis-
9 ability Fund and the Foreign Service Pension System by
10 requiring a 3-month delay in cost-of-living adjustments in
11 each of the fiscal years 1994, 1995, and 1996.

12 **TITLE VII—COMMITTEE ON THE**
13 **JUDICIARY**

14 **SEC. 7001. PATENT AND TRADEMARK FEES.**

15 Section 10101 of the Omnibus Budget Reconciliation
16 Act of 1990 (35 U.S.C. 41 note) is amended—

17 (1) in subsection (a) by striking “1995” and in-
18 serting “1998”;

19 (2) in subsection (b)(2) by striking “1995” and
20 inserting “1998”; and

21 (3) in subsection (c)—

22 (A) by striking “through 1995” and insert-
23 ing “through 1998”; and

24 (B) by adding at the end the following:

25 “(6) \$111,000,000 in fiscal year 1996.

1 “(7) \$115,000,000 in fiscal year 1997.

2 “(8) \$119,000,000 in fiscal year 1998.”.

3 **TITLE VIII—COMMITTEE ON**
4 **MERCHANT MARINE AND**
5 **FISHERIES**

6 **SEC. 8001. EXTENSION OF VESSEL TONNAGE DUTIES.**

7 (a) EXTENSION OF DUTIES.—Section 36 of the Act
8 of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121),
9 is amended by—

10 (1) striking “and 1995,” each place it appears
11 and inserting “1995, 1996, 1997, 1998,”;

12 (2) striking “place,” and inserting “place;”;
13 and

14 (3) striking “port, not, however, to include ves-
15 sels in distress or not engaged in trade” and insert-
16 ing “port. However, neither duty shall be imposed
17 on vessels in distress or not engaged in trade”.

18 (b) CONFORMING AMENDMENT.—The Act of March
19 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended
20 by striking “and 1995,” and inserting “1995, 1996, 1997,
21 and 1998,”.

22 (c) TECHNICAL CORRECTION.—

23 (1) CORRECTION.—Section 10402(a) of the
24 Omnibus Budget Reconciliation Act of 1990 (104

1 Stat. 1388–398) is amended by striking “in the sec-
2 ond paragraph”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall be effective on and after No-
5 vember 5, 1990.

6 **SEC. 8002. SENSE OF THE CONGRESS ON THE INLAND WA-**
7 **TERWAYS FUEL TAX.**

8 (a) FINDINGS.—The Congress finds the following:

9 (1) The Administration has proposed to in-
10 crease the tax on inland barge fuels from \$0.19 to
11 \$1.19 per gallon by 1997, which represents an in-
12 crease of 525 percent.

13 (2) The General Accounting Office has recently
14 identified 117 forms of Federal fees, taxes, and as-
15 sessments, not including customs duties, which raise
16 some \$2,000,000,000 in Federal revenues each year.

17 (3) Barge transportation is one of the most
18 competitive, efficient, safe, and environmentally
19 friendly modes of transportation.

20 (4) Barges transport 15 percent of our Nation’s
21 commerce and provide jobs to some 180,000 Ameri-
22 cans.

23 (5) The Administration’s proposed increase
24 would add \$420,000,000 in new taxes for operators

1 on inland waterways, which is more than their
2 pretax profits.

3 (6) This increase would cause barge rates to
4 skyrocket, increasing costs to consumers and dev-
5 astating industries dependent upon the commercial
6 use of barges such as coal, agriculture, and petro-
7 chemicals, and would add to our unfavorable balance
8 of trade payments by hurting the competitiveness of
9 United States exports.

10 (7) Because the price of certain agricultural
11 commodities, such as grain, are set in the world
12 marketplace, increased inland barge fuel taxes could
13 not be passed on to consumers and would largely be
14 borne by our Nation's farmers.

15 (8) The Senate on March 18, 1993, voted 88 to
16 12 to reject any further increase in inland barge fuel
17 taxes.

18 (9) This huge tax increase would cause many
19 barge companies to go out of business, would result
20 in thousands of lost American jobs, and would fur-
21 ther burden the already beleaguered United States
22 maritime industry.

23 (b) SENSE OF CONGRESS.—It is the sense of the
24 Congress that the inland waterways fuel tax should not

1 be further increased beyond those increases already man-
2 dated by law.

3 **TITLE IX—COMMITTEE ON**
4 **NATURAL RESOURCES**

5 **SEC. 9001. ANNUAL DIRECT GRANT ASSISTANCE.**

6 (a) **REPEAL.**—Sections 3 and 4 of the Act of March
7 24, 1976 entitled “a Joint Resolution to approve the ‘Cov-
8 enant To Establish a Commonwealth of the Northern
9 Mariana Islands in Political Union with the United States
10 of America’, and for other purposes” (90 Stat. 263 and
11 following; 48 U.S.C. 1681 note) are repealed, effective on
12 October 1, 1993.

13 (b) **DEFINITIONS.**—As used in this section:

14 (1) **COMMITTEES.**—The term “committees”
15 means the Committee on Natural Resources of the
16 House of Representatives and the Committee on
17 Energy and Natural Resources of the Senate.

18 (2) **RECOMMENDATIONS.**—The term “Rec-
19 ommendations” means the document executed De-
20 cember 17, 1992, between the special representative
21 of the President of the United States and the special
22 representatives of the Governor of the Common-
23 wealth of the Northern Mariana Islands relating to
24 future federal assistance for the Northern Mariana
25 Islands.

1 (3) REPORTING DATE.—The term “reporting
2 date” means the date on which the budget of the
3 President for the fiscal year 1995 is required to be
4 submitted to the Congress under section 1105 of
5 title 31, United States Code.

6 (c) ASSISTANCE.—

7 (1) AMOUNTS.—Except as otherwise pro-
8 vided under this section, enactment of this sec-
9 tion shall constitute a commitment and pledge
10 of the full faith and credit of the United States
11 for the payment of the following amounts:

12 (A) In fulfillment of the United States
13 obligation under P.L. 94-241 and the au-
14 thorization in P.L. 95-348, \$3,000,000 for
15 fiscal year 1994, which shall be available
16 only for the American Memorial Park, lo-
17 cated at Tanapag Harbor Reservation,
18 Saipan, to be expended in accordance with
19 section 5 of the Act entitled “An Act to
20 authorize appropriations for certain insular
21 areas of the United States, and for other
22 purposes”, approved August 18, 1978 (92
23 Stat. 492), for the primary purpose of con-
24 structing an appropriate monument honor-

1 ing the dead in the World War II Mariana
2 Islands campaign.

3 (B) \$19,000,000 for fiscal year 1994,
4 to be held in trust in a special account by
5 the Secretary of the Interior for American
6 Samoa, the Commonwealth of the North-
7 ern Mariana Islands, Guam, the Trust
8 Territory of the Pacific Islands, and the
9 Virgin Islands, and to be disbursed by the
10 Secretary during fiscal year 1994 for es-
11 sential capital improvement projects. Such
12 disbursements shall be made by the Sec-
13 retary for projects described in plans sub-
14 mitted to the Secretary by the govern-
15 ments of American Samoa, the Common-
16 wealth of the Northern Mariana Islands,
17 Guam, the Trust Territory of the Pacific
18 Islands, and the Virgin Islands. No such
19 disbursements shall be made pursuant to
20 any such plan until after the expiration of
21 a period of 60 days after such plan has
22 been submitted to the committees. No such
23 disbursements shall be made to the Com-
24 monwealth of the Northern Mariana Is-
25 lands during fiscal year 1994 pursuant to

1 any such plan until the committees have
2 received the reports required under sub-
3 section (d)(3) and a Joint Resolution has
4 been adopted expressing the sense of Con-
5 gress that disbursements are appropriate.
6 The Inspector General of the Department
7 of the Interior shall (i) monitor the ex-
8 penditure of such funds to determine
9 whether such funds are expended in ac-
10 cordance with applicable law, and (ii) sub-
11 mit a report of the findings to the commit-
12 tees not later than January 1, 1995.

13 (C) Subject to paragraphs (2), (3),
14 and (4) and subject to subsection (d), not
15 more than \$98,000,000 for the 6-year pe-
16 riod beginning October 1, 1994, for the
17 government of the Commonwealth of the
18 Northern Mariana Islands, for capital im-
19 provement projects, at annual amounts
20 that shall not exceed those specified for the
21 Federal contribution within the general
22 funding schedule contained in the Rec-
23 ommendations.

1 (2) MATCHING RATIO AND INTEREST
2 EARNINGS.—Nothing in this section shall be
3 construed to—

4 (A) modify the matching ratio re-
5 quirement specified in the funding schedule
6 contained in the Recommendations; or

7 (B) modify the terms of the Rec-
8 ommendations as to the availability of in-
9 terest earnings on funds contributed under
10 Public Law 99–396 upon meeting the
11 terms of the grant pledge agreements en-
12 tered into under Public Law 99–396.

13 (3) ROTA, TINIAN, AND SAIPAN.—No less
14 than $\frac{1}{8}$ th share of the funds made available
15 under subsection (c)(1)(C) shall be expended in
16 the islands of Rota and Tinian and no less than
17 $\frac{1}{4}$ th share shall be expended in Saipan.

18 (4) APPLICABILITY OF GRANT REGULA-
19 TIONS.—The Federal assistance provided under
20 this section shall be subject to the applicable
21 Federal grant regulations set forth in the Com-
22 mon Rule (43 C.F.R. 12a, OMB Circular A-
23 102, and OMB Circular A-128).

24 (d) CONDITION ON MULTI-YEAR ASSISTANCE.—

1 (1) JOINT RESOLUTION.—Amounts under sub-
2 section (c)(1)(C) for fiscal years 1995 through 2000
3 shall be as determined by the Congress by joint reso-
4 lution. It is the intent of the Congress that the com-
5 mittees report such a joint resolution after consider-
6 ing the plan referred to in paragraph (2) and re-
7 ports required by this subsection.

8 (2) CAPITAL IMPROVEMENT PROJECTS PLAN.—
9 The plan referred to in paragraph (1) is a plan de-
10 veloped and submitted by the Governor of the Com-
11 monwealth of the Northern Mariana Islands to the
12 Secretary of the Interior as approved by the legisla-
13 ture of the Commonwealth for new and recon-
14 structed capital infrastructure projects, indicating
15 the order of priority, together with cost estimates for
16 each project and identification of sources of financ-
17 ing for each project. The Secretary of the Interior
18 shall submit the plan, together with his rec-
19 ommendations, to the committees not later than the
20 reporting date.

21 (3) REPORTS.—Each of the following reports
22 shall be submitted to the committees not later than
23 the reporting date as follows:

24 (A) REVENUE BURDEN.—The Comptroller
25 General of the United States, after consultation

1 with the government of the Northern Mariana
2 Islands, shall submit a report describing the ef-
3 fective revenue burden (including all taxes and
4 fees) imposed by the government of the Com-
5 monwealth of the Northern Mariana Islands.

6 The report shall—

7 (i) address whether revenues raised
8 are sufficient to meet the infrastructure
9 needs of the Commonwealth; and

10 (ii) compare the revenue burden of the
11 Commonwealth with that of Guam.

12 (B) COMPLIANCE WITH AUDIT REC-
13 OMMENDATIONS.—The Inspector General of the
14 Department of the Interior shall submit a re-
15 port on (i) compliance by the government of the
16 Commonwealth of the Northern Mariana Is-
17 lands with recommendations made by the In-
18 spector General pursuant to audits of the gov-
19 ernment of the Commonwealth, and (ii) on all
20 unfulfilled commitments made by the govern-
21 ment of the Commonwealth in response to those
22 recommendations.

23 (C) ASSESSMENT OF MINIMUM WAGE.—
24 The Secretary of Labor, after consultation with
25 the government of the Commonwealth of the

1 Northern Mariana Islands, shall submit a re-
2 port which assesses whether—

3 (i) the minimum wage policies of the
4 Commonwealth are sufficient for the main-
5 tenance of the minimum standard of living
6 necessary for health, efficiency, and gen-
7 eral well-being of workers in the Common-
8 wealth;

9 (ii) the prevailing wages paid in the
10 Commonwealth are effectively reduced by
11 the immigration policy of the Common-
12 wealth; and

13 (iii) the wage rate in the Common-
14 wealth gives industries in the Common-
15 wealth a competitive advantage over indus-
16 tries in the United States outside of the
17 Commonwealth.

18 (D) IMMIGRATION POLICY AND BURDEN
19 ON INFRASTRUCTURE.—(i) The Attorney Gen-
20 eral of the United States, after consultation
21 with the government of the Commonwealth of
22 the Northern Mariana Islands, shall submit a
23 report which assesses—

24 (I) whether the immigration laws of
25 the Commonwealth are appropriate in light

1 of the social and economic situation in the
2 Commonwealth;

3 (II) the extent to which the Common-
4 wealth is relying on temporary alien work-
5 ers to meet the Commonwealth's perma-
6 nent labor needs;

7 (III) whether the Commonwealth has
8 taken steps to reduce its dependence on
9 temporary alien workers; and

10 (IV) the political and civil rights of
11 the alien population as compared to the
12 resident population.

13 (ii) The Comptroller General of the United
14 States shall submit a report to the Congress
15 which analyzes the socioeconomic impact of the
16 immigration policy of the Commonwealth of the
17 Northern Mariana Islands, including the finan-
18 cial burden imposed by the alien population on
19 the infrastructure.

20 (E) ENVIRONMENTAL LAWS.—The Sec-
21 retary of the Interior and the Administrator of
22 the Environmental Protection Agency shall each
23 submit a report to the Congress on the compli-
24 ance by the Commonwealth of the Northern
25 Mariana Islands with United States environ-

1 mental laws, including (but not limited to) the
2 National Environmental Policy Act of 1969, the
3 Endangered Species Act of 1973, and the Fed-
4 eral Water Pollution Control Act.

5 **SEC. 9002. NET RECEIPTS SHARING.**

6 Section 35 of the Mineral Leasing Act is amended
7 as follows:

8 (1) Strike the last sentence.

9 (2) Insert “(a) IN GENERAL.—” after “SEC.
10 35.”

11 (3) Insert “and, subject to subsection (b),” be-
12 tween “United States;” and “50 percentum”.

13 (4) Add the following new subsection at the end
14 thereof:

15 “(b) ADMINISTRATIVE COSTS.—(1) In calculating the
16 amount to be paid to each State during any fiscal year
17 under this section and under other provisions of law re-
18 quiring payment to a State of any revenues derived from
19 the leasing of any other onshore lands or interest in land
20 owned by the United States for the production of the same
21 types of minerals as are leasable under this Act or for
22 the production of geothermal steam, prior to the division
23 and distribution of such leasing receipts between the
24 States and the United States, the Secretary shall deduct
25 50 percent of the portion of the enacted appropriations

1 of the Department of the Interior and of other depart-
2 ments and agencies of the United States for the preceding
3 fiscal year allocable to the administration and enforcement
4 of this Act and such other provisions of law. Such deduc-
5 tion shall be in approximately equal amounts each month
6 (subject to paragraph (3)).

7 “(2) The proportion of the deduction required under
8 paragraph (1) which is allocable to each State shall be
9 a percentage of the total deduction allocable to all States.
10 The percentage shall be determined by dividing—

11 “(A) the monies disbursed to the State during
12 the preceding fiscal year under the provisions of this
13 section and the other provisions of law referred to in
14 paragraph (1), by

15 “(B) the total money disbursed to all States
16 during that fiscal year under such provisions.

17 “(3) If the amount otherwise deductible under this
18 subsection in any month from the portion of revenues to
19 be distributed to a State exceeds the amount payable to
20 the State during that month, any amount exceeding the
21 amount payable shall be carried forward and deducted
22 from amounts payable to the State in subsequent months.

23 “(4) All amounts deducted under this subsection
24 from monies otherwise payable to a State shall be credited
25 to miscellaneous receipts in the Treasury.”.

1 **SEC. 9003. HARD ROCK MINING CLAIM MAINTENANCE AND**
2 **LOCATION FEES.**

3 (a) CLAIM MAINTENANCE AND LOCATION FEES.—

4 (1) CLAIM MAINTENANCE FEES.—The holder
5 of each unpatented mining claim, mill or tunnel site
6 located pursuant to the Mining Laws of the United
7 States (whether located before or after enactment of
8 this Act) shall pay to the Secretary of the Interior
9 or his designee for each assessment year a flat claim
10 maintenance fee of not less than \$100 per claim.
11 Such claim maintenance fee shall be in lieu of the
12 assessment work requirement contained in the Min-
13 ing Law of 1872 (30 U.S.C. 28–28e) and the related
14 filing requirements contained in section 314 (a) and
15 (c) of the Federal Land Policy and Management Act
16 of 1976 (43 U.S.C. 1744 (a) and (c)).

17 (2) LOCATION FEE.—For each mining claim,
18 mill or tunnel site located pursuant to the Mining
19 Laws of the United States after the date of enact-
20 ment of this Act, the claimant shall pay the Sec-
21 retary a location fee of \$25.

22 (b) TIME OF PAYMENT.—The claim maintenance fee
23 payable under subsection (a)(1) for any assessment year
24 shall be paid before the commencement of the assessment
25 year, except that for the initial assessment year in which
26 the location is made, the locator shall pay the claim main-

1 tenance fee at the time the location notice is recorded with
2 the Bureau of Land Management. The location fee im-
3 posed under subsection (a)(2) shall be payable not later
4 than 90 days after the date of location.

5 (c) DEPOSIT IN TREASURY.—The Secretary shall de-
6 posit monies received under this Act as miscellaneous re-
7 ceipts in the Treasury.

8 (d) CO-OWNERSHIP.—The co-ownership provisions of
9 section 2324 of the Mining Law of 1872 (30 U.S.C. 28)
10 shall remain in effect with respect to mining claims subject
11 to such provisions except that the annual claim mainte-
12 nance fee, where applicable, shall be paid in lieu of appli-
13 cable assessment requirements and expenditures.

14 (e) FORFEITURE.—Failure to make the annual pay-
15 ment of any claim maintenance or location fee required
16 with respect to any unpatented mining claim, mill, or tun-
17 nel site required by subsection (a) shall conclusively con-
18 stitute a forfeiture by the holder of the unpatented mining
19 claim, mill or tunnel site, effective at noon on the date
20 the payment is due.

21 (f) FLPMA FILING REQUIREMENTS.—Nothing in
22 this Act shall change or modify the requirements of section
23 314(b) of the Federal Land Policy and Management Act
24 of 1976 (43 U.S.C. 1744(b)) or the requirements of sec-
25 tion 314(c) of the Federal Land Policy and Management

1 Act of 1976 (43 U.S.C. 1744(c)) related to filings required
2 by such section 314(b). Such requirements shall remain
3 in effect with respect to claims, and mill or tunnel sites
4 for which fees are required to be paid under this section.

5 (g) RULES AND REGULATIONS.—The Secretary of
6 the Interior shall promulgate rules and regulations to
7 carry out the purposes of this section as soon as prac-
8 ticable after the date of enactment of this Act.

9 (h) PURCHASING POWER ADJUSTMENT.—Every 5
10 years following the date of enactment of this Act, or more
11 frequently if the Secretary determines a more frequent ad-
12 justment to be reasonable, the Secretary of the Interior
13 shall adjust the fees specified in subsection (a) to reflect
14 changes in the purchasing power of the dollar. The Sec-
15 retary shall use the Consumer Price Index for all urban
16 consumers published by the Department of Labor as the
17 basis for adjustment, rounding according to the adjust-
18 ment process of conditions of the Federal Civil Penalties
19 Inflation Adjustment Act of 1990 (104 Stat. 890). The
20 Secretary shall provide claimants notice of any adjustment
21 made under this subsection not later than July 1 of any
22 year in which the adjustment is made. A fee adjustment
23 under this paragraph shall begin to apply the first assess-
24 ment which begins after the adjustment is made.

1 (i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
2 NANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
3 This section shall not apply to any oil shale claims for
4 which a fee is required to be paid under section 2511(e)(2)
5 of the Energy Policy Act of 1992 (Public Law 102-486;
6 106 Stat. 3111; 30 U.S.C. 242).

7 (j) EXCEPTION FOR HOLDERS OF FEWER THAN 50
8 CLAIMS.—

9 (1) ELIGIBILITY.—In accordance with para-
10 graph (3), a claimant may be eligible for a waiver
11 or reduction of the claim maintenance fees imposed
12 under this section if the claimant certifies in writing
13 to the Secretary that on the date the payment was
14 due, the claimant and all related parties—

15 (A) held not more than 50 mining claims,
16 mill sites, or tunnel sites, or any combination
17 thereof, on public lands; and

18 (B) have performed assessment work suffi-
19 cient to maintain the mining claims held by the
20 claimant and such related parties for the as-
21 sessment year ending on noon of September 1
22 of the calendar year in which payment of the
23 claim maintenance fee was due; except that
24 such performance of assessment work shall not
25 be required by reason of section 5 of Public

1 Law 94-429, commonly known as the Mining
2 in the Parks Act, or such other laws that before
3 the date of the enactment of this Act removed
4 the applicability of the assessment work re-
5 quirement of the general mining laws for any
6 claim subject to such laws.

7 (2) HOLDER.—For purposes of paragraph (1),
8 with respect to any claimant, the term “related par-
9 ties” means—

10 (A) the spouse and dependent children (as
11 defined in section 152 of the Internal Revenue
12 Code of 1986), of the claimant; and

13 (B) a person affiliated with the claimant,
14 including—

15 (i) a person controlled by, controlling,
16 or under common control with the claim-
17 ant; and

18 (ii) a subsidiary or parent company or
19 corporation of the claimant.

20 (3) WAIVED OR REDUCED MAINTENANCE
21 FEES.—

22 (A) 10 OR FEWER CLAIMS.—The Secretary
23 of the Interior may waive the claim mainte-
24 nance fee imposed under this section in its en-

1 tirety for 10 or fewer claims held by a claimant
2 eligible under paragraph (1).

3 (B) 11 OR MORE CLAIMS.—

4 (i) IN GENERAL.—Subject to clause
5 (ii), for a claimant eligible under para-
6 graph (1), the Secretary may reduce the
7 claim maintenance fee imposed under this
8 section to \$25 per claim for each claim in
9 excess of 10.

10 (ii) LIMITATION.—The reduction pro-
11 vided for in this subparagraph shall be
12 available for no more than 50 claims held
13 by a claimant who is eligible under para-
14 graph (1).

15 (4) PAYMENT IN LIEU OF ANNUAL LABOR RE-
16 QUIREMENTS.—The third sentence of section 2324
17 of the Revised Statutes (30 U.S.C. 28) is amended
18 by inserting after “On each claim located after the
19 tenth day of May, eighteen hundred and seventy-
20 two,” the following: “for which a waiver of the main-
21 tenance fee, or a reduced maintenance fee, under
22 section 9003 of the Omnibus Budget Reconciliation
23 Act of 1993 has been granted under subsection (j)
24 of that section,”.

1 (5) FILING REQUIREMENTS.—The holder of any
2 unpatented mining claim for which a waiver of the
3 maintenance fee, or a reduced maintenance fee, has
4 been granted pursuant to this subsection shall con-
5 tinue to be subject to the filing requirements con-
6 tained in sections 314(a) and (c) of the Federal
7 Land Policy Management Act of 1976 (43 U.S.C.
8 1744(a) and (c)).

9 (k) EFFECTIVE DATE.—This section shall take effect
10 with respect to assessment years beginning after August
11 31, 1994.

12 **SEC. 9004. FEDERAL IRRIGATION WATER SURCHARGE.**

13 (a) FINDINGS AND PURPOSES.—

14 (1) FINDINGS.—The Congress finds that—

15 (A) the construction and operation of Fed-
16 eral reclamation projects have contributed to
17 the depletion of streams, the alteration of ripar-
18 ian habitat, and the degradation of water qual-
19 ity;

20 (B) such impacts have had adverse impacts
21 on fish and wildlife resources; and

22 (C) the restoration of fish and wildlife and
23 related habitat affected by the construction or
24 operation of Federal reclamation projects is a

1 continuing responsibility of the beneficiaries of
2 such projects.

3 (2) PURPOSES.—The purposes of this section
4 are to—

5 (A) incorporate the restoration of fish and
6 wildlife resources and related habitat affected
7 by the construction or operation of Federal rec-
8 lamation projects into the annual operation and
9 maintenance requirements of such projects;

10 (B) establish a fair and equitable mecha-
11 nism for securing timely payments from the
12 beneficiaries of such projects for the implemen-
13 tation, operation, and maintenance of fish and
14 wildlife restoration measures;

15 (C) accelerate the rate of restoration and
16 recovery of depleted populations of indigenous
17 fish and wildlife; and

18 (D) encourage more efficient use of water
19 resources by the beneficiaries of Federal rec-
20 lamation projects.

21 (b) OPERATIONAL CHARGES.—

22 (1) IN GENERAL.—Individuals or non-Federal
23 entities that receive delivery of water (including by
24 exchange) which is stored in or transported through
25 Federal reclamation projects or project facilities or

1 projects or project facilities constructed by the Sec-
2 retary of the Army that meet the conditions speci-
3 fied in paragraph (1) or (2) of section 212(a) of the
4 Reclamation Reform Act of 1982 (Public Law 97-
5 293, 43 U.S.C. 390ll), except for facilities of the
6 Central Valley Project, California (as that project is
7 defined by title XXXIV of Public Law 102-575),
8 shall, pursuant to such terms, conditions, and proce-
9 dures as the Secretary of the Interior may prescribe,
10 pay to the United States an operation and mainte-
11 nance charge sufficient to yield at least \$10,000,000
12 (January 1993 price levels) annually in the years
13 1994, 1995, and 1996 and at least \$15,000,000
14 (January 1993 price levels) annually in 1997 and
15 each year thereafter.

16 (2) PAYMENTS.—Payments required by para-
17 graph (1) shall be made without reduction or defere-
18 ral by the Secretary under any provision of reclama-
19 tion law and without regard to whether an individual
20 or entity has discharged its repayment obligation
21 within the meaning of the first section of the Act of
22 July 2, 1956 (70 Stat. 483; 43 U.S.C. 485h-1), sec-
23 tion 213 of the Reclamation Reform Act of 1982
24 (Public Law 97-293, 43 U.S.C. 390mm), or any
25 other provision of Federal Reclamation law. The

1 payments shall be in addition to any other repay-
2 ments owed or made to the United States and shall
3 not be applied or credited to an individual's or enti-
4 ty's repayment of project construction costs, pay-
5 ment of other annual project operation and mainte-
6 nance costs, payment of interest, or reduction of any
7 contractual obligation the individual or entity may
8 have with the United States.

9 (c) NATURAL RESOURCES RESTORATION FUND.—

10 There is hereby established in the Treasury of the United
11 States a fund to be known as the “Natural Resources Res-
12 toration Fund” (hereafter in this section referred to as
13 the “Fund”). All payments of the operation and mainte-
14 nance charges authorized in subsection (b) shall be depos-
15 ited in the Fund, and shall be available in the fiscal year
16 following deposit and thereafter, to such extent or in such
17 amounts as are provided in advance in appropriation Acts,
18 for expenditures by the Secretary of the Interior for the
19 benefit of fish and wildlife resources, including habitat, af-
20 fected by construction or operation of the projects referred
21 to in this section.

22 (d) INDIAN LAND OWNERS.—For the purposes of
23 this section, Indian tribes or individual Indian beneficial
24 owners of land held in trust by the United States or sub-

1 ject to a restriction against alienation by the United States
2 shall be considered to be Federal entities.

3 (e) FEDERAL RECLAMATION LAW.—This section
4 shall constitute an amendment of and a supplement to the
5 Federal Reclamation laws (the Reclamation Act of 1902,
6 32 Stat. 388, and Acts amendatory thereof and supple-
7 mentary thereto).

8 **SEC. 9005. RECREATION USER FEES.**

9 (a) LAND AND WATER CONSERVATION FUND ACT OF
10 1965.—

11 (1) IN GENERAL.—The first sentence of section
12 4(b) of the Land and Water Conservation Fund Act
13 of 1965 (relating to recreation use fees) is amended
14 by striking out “picnic tables, or boat ramps” and
15 all that follows down through the period at the end
16 thereof and inserting the following: “or picnic tables,
17 and in no event shall there be any charge for the use
18 of any campground not having a majority of the fol-
19 lowing: tent or trailer spaces, drinking water, access
20 road, refuse containers, toilet facilities, fee collection
21 by an employee or agent of the Federal agency oper-
22 ating the facility, reasonable visitor protection, and
23 simple devices for containing a campfire (where
24 campfires are permitted). For purposes of this sub-
25 section, the term ‘specialized outdoor recreation site’

1 includes but shall not be limited to campgrounds,
2 swimming sites, boat launch facilities, and managed
3 parking lots.”. The second sentence of such section
4 4(b) is hereby repealed.

5 (2) CONFORMING AMENDMENT.—Section 210
6 of Public Law 90–483 (82 Stat. 746; 16 U.S.C.
7 460d–3) is repealed.

8 (b) COSTS OF COLLECTION.—Section 4(i) of the
9 Land and Water Conservation Fund Act of 1965 (relating
10 to special accounts for fees collected) is amended by insert-
11 ing “(A)” after “(1)” and by adding the following at the
12 end of paragraph (1):

13 “(B) Notwithstanding subparagraph (A), in any fis-
14 cal year, the Secretary of Agriculture and the Secretary
15 of the Interior may withhold from the special account es-
16 tablished under subparagraph (A) such portion of all re-
17 ceipts the fees collected in that fiscal year under this sec-
18 tion as such Secretary determines to be equal to the addi-
19 tional fee collection costs for that fiscal year. The amounts
20 so withheld shall be retained by the Secretary of Agri-
21 culture or the Secretary of the Interior and shall be avail-
22 able, without further appropriation, for expenditure by the
23 Secretary concerned in the fiscal year in which collected
24 to cover such additional fee collection costs. The Secretary
25 concerned shall deposit in the special account established

1 pursuant to subparagraph (A) any amounts so retained
2 which remain unexpended and unobligated at the end of
3 such fiscal year. For the purposes of this subparagraph,
4 for any fiscal year, the term ‘additional fee collection costs’
5 means those costs for personnel and infrastructure di-
6 rectly associated with the collection of fees imposed under
7 this section which exceed the costs for personnel and infra-
8 structure directly associated with the collection of such
9 fees during fiscal year 1993.”.

10 (c) GOLDEN AGE PASSPORT.—The second sentence
11 of section 4(a)(4) of the Land and Water Conservation
12 Fund Act of 1965 (relating to Golden Age Passports) is
13 amended to read as follows: “Such permit shall be
14 nontransferable, shall be issued for a charge of \$10, and
15 shall entitle the permittee and the permittee’s spouse ac-
16 companying the permittee to general admission into any
17 area designated pursuant to this section.”.

18 (d) USER FEES FOR RIGHTS-OF-WAY.—In each fis-
19 cal year after the enactment of this Act, the Secretary of
20 the Interior shall impose and collect an annual fee for the
21 use and occupancy of any right-of-way through any na-
22 tional park system unit for which a permit has been issued
23 by the Secretary pursuant to any general or specific statu-
24 tory right-of-way authority (whether issued before or after
25 the enactment of this Act) or for any other right-of-way

1 allowed as of the date of the enactment of this Act. The
2 amount of such annual fee shall be equal to the fair mar-
3 ket rental value, as determined by the Secretary, of such
4 use and occupancy for the fiscal year concerned. The fair
5 market value shall be reviewed (and revised if necessary)
6 not less frequently than every 3 years. The Secretary shall
7 deposit all fees collected under this subsection in the spe-
8 cial account established under section 4(i) of the Land and
9 Water Conservation Fund Act of 1965.

10 (e) COMMERCIAL TOUR USE FEES.—(1) In the case
11 of each unit of the National Park System for which an
12 admission fee is charged under section 4 of the Land and
13 Water Conservation Fund Act of 1965 (16 U.S.C. 460l-
14 4), the Secretary of the Interior shall establish, by October
15 1, 1993, a commercial tour use fee to be imposed on each
16 vehicle or aircraft entering the unit (or the airspace of
17 the unit) for the purpose of providing commercial tour
18 services within (or within the air space of) the unit. Fee
19 revenue derived from such commercial tour use fees shall
20 be deposited into the special account established under
21 section 4(i) of the Land and Water Conservation Fund
22 Act of 1965.

23 (2) The Secretary shall establish the amount of fee
24 to be imposed under this subsection per entry. The fee
25 shall not be less than—

1 (A) \$25 per vehicle or aircraft with a passenger
2 capacity of 25 persons or less,

3 (B) \$50 per vehicle or aircraft with a passenger
4 capacity of 26 to 99 persons, and

5 (C) \$100 per vehicle or aircraft with a pas-
6 senger capacity of 100 to 299 persons.

7 The Secretary may periodically increase the fee imposed
8 under this subsection as he deems necessary and justifi-
9 able.

10 (3) The commercial tour use fee imposed under this
11 subsection shall not apply to either of the following:

12 (A) Any vehicle or aircraft transporting orga-
13 nized school groups or outings conducted for edu-
14 cational purposes by schools or other bona fide edu-
15 cational institutions.

16 (B) Any vehicle or aircraft entering a park sys-
17 tem unit pursuant to a contract issued under the
18 Act of October 9, 1965 (16 U.S.C. 20–20g) entitled
19 “An Act relating to the establishment of concession
20 policies in the areas administered by the National
21 Park Service and for other purposes”.

22 (f) FAIR MARKET VALUE FOR COMMUNICATION SITE
23 FEES.—No permit or other authorization for the use of
24 any area of the public lands of the United States for pur-
25 poses of commercial telephone transmission facilities shall

1 remain in force and effect after January 1, 1994 unless,
2 before that date, and before January 1 of each year there-
3 after, the holder of such permit or other authorization
4 pays to Secretary of the Department having administra-
5 tive jurisdiction over such lands an amount equal to the
6 fair market value, as determined by such Secretary, of the
7 right to use and occupy such area for such purposes. For
8 purposes of this subsection, the term “public lands of the
9 United States” means lands owned by the United States
10 and administered by the Secretary of the Interior (other
11 than lands held for the benefit of Indians, Aleuts, and Es-
12 kimos) and lands within the National Forest System.

13 **SEC. 9006. NUCLEAR REGULATORY COMMISSION ANNUAL**
14 **CHARGES.**

15 Section 6101(a)(3) of the Omnibus Budget Reconcili-
16 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by
17 striking “September 30, 1995” and inserting “September
18 30, 1998”.

19 **SEC. 9007. RECOVERING THE COST FOR GOVERNMENT**
20 **SERVICES.**

21 (a) REPORT.—Not later than January 1, 1994, the
22 Secretary of the Interior and the Secretary of Energy shall
23 each submit a report identifying fees, penalties, and other
24 charges to the Committee on Natural Resources of the

1 House of Representatives and the Committee on Energy
2 and Natural Resources of the Senate. Each report shall—

3 (1) identify all fees, penalties, and other
4 charges imposed by the respective Secretary for the
5 provision of services;

6 (2) include the procedures for adjusting such
7 fees to recover the cost of providing those services;
8 and

9 (3) identify those services for which no fee is
10 currently charged and make recommendations for a
11 fee appropriate to cover the cost of providing each
12 service.

13 (b) ADJUSTMENT OF FEES.—Except as provided in
14 subsection (d), for fiscal year 1995 and each fiscal year
15 thereafter, the Secretary of the Interior and the Secretary
16 of Energy shall adjust each fee, penalty, and other charge
17 for the provision of services identified pursuant to sub-
18 section (a)(1). Each such fee, penalty, and charge shall
19 be adjusted in accordance with the procedures identified
20 pursuant to subsection (a)(2).

21 (c) IMPLEMENTATION OF FEES FOR SERVICES NOT
22 COVERED.—Beginning with fiscal year 1995, the Sec-
23 retary of the Interior and the Secretary of Energy shall
24 charge fees for each of the services identified pursuant to
25 subsection (a)(3) in an amount sufficient to recover the

1 cost of providing the service. For each fiscal year there-
2 after, the fee shall be adjusted in the same manner as
3 adjustments are made pursuant to subsection (b), using
4 fiscal year 1995 as the base year.

5 (d) CERTAIN FEES, PENALTIES AND CHARGES NOT
6 COVERED.—Subsection (b) shall not apply to any fee, pen-
7 alty, or charge the amount of which is expressly specified
8 in any statute or contract.

9 **SEC. 9008. UNFUNDED LIABILITIES OF THE FEDERAL GOV-**
10 **ERNMENT.**

11 Section 1105 of title 31, United States Code, is
12 amended by adding the following subsection at the end
13 thereof:

14 “(g) The President shall transmit with materials re-
15 lated to each budget an estimate of unfunded future liabil-
16 ities of the Federal Government that are not accounted
17 for in the budget itself. Such estimate shall include (but
18 not be limited to) liabilities for future remediation of envi-
19 ronmental and natural resources damage, and cleaning up
20 waste sites, on Federal lands. Sources of liabilities shall
21 include (but not be limited to) active, inactive, or aban-
22 doned mines or oil or gas wells, irrigation waste water im-
23 pacts, decommissioning of nuclear power plants, and ura-
24 nium mining and processing activities (without regard to
25 the location of such mining or processing activities) affect-

1 ing the health of Native Americans and carried out pursu-
2 ant to a program administered by the United States.”.

3 **TITLE X—COMMITTEE ON POST**
4 **OFFICE AND CIVIL SERVICE**
5 **Subtitle A—Civil Service**

6 **SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN**
7 **FEDERAL EMPLOYEE RETIREMENT BENEFITS**
8 **DURING FISCAL YEARS 1994, 1995, AND 1996.**

9 (a) **APPLICABILITY.**—This section shall apply with
10 respect to any cost-of-living increase scheduled to take
11 effect, during fiscal year 1994, 1995, or 1996, under—

12 (1) section 8340(b) or 8462(b) of title 5, Unit-
13 ed States Code;

14 (2) section 826 or 858 of the Foreign Service
15 Act of 1980; or

16 (3) section 291 of the Central Intelligence
17 Agency Retirement Act (50 U.S.C. 2131), as set
18 forth in section 802 of the CIARDS Technical Cor-
19 rections Act of 1992 (Public Law 102–496; 106
20 Stat. 3196).

21 (b) **DELAY IN EFFECTIVE DATE OF ADJUST-**
22 **MENTS.**—A cost-of-living increase described in subsection
23 (a) shall not take effect until the first day of the third
24 calendar month after the date such increase would other-
25 wise take effect.

1 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be considered to affect any determination relat-
3 ing to eligibility for an annuity increase or the amount
4 of the first increase in an annuity under section 8340(b)
5 or (c) or section 8462(b) or (c) of title 5, United States
6 Code, or comparable provisions of law.

7 **SEC. 10002. PERMANENT ELIMINATION OF THE ALTER-**
8 **NATIVE-FORM-OF-ANNUITY OPTION EXCEPT**
9 **FOR INDIVIDUALS WITH A CRITICAL MEDI-**
10 **CAL CONDITION.**

11 (a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL
12 EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and
13 8420a of title 5, United States Code, are each amended—

14 (1) in subsection (a) by striking “an employee
15 or Member may,” and inserting “any employee or
16 Member who has a life-threatening affliction or
17 other critical medical condition may,”; and

18 (2) by striking subsection (f).

19 (b) FOREIGN SERVICE RETIREMENT AND DISABIL-
20 ITY SYSTEM.—Section 807(e)(1) of the Foreign Service
21 Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by strik-
22 ing “a participant may,” and inserting “any participant
23 who has a life-threatening affliction or other critical medi-
24 cal condition may,”.

1 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
2 AND DISABILITY SYSTEM.—Section 294(a) of the Central
3 Intelligence Agency Retirement Act (50 U.S.C. 2143(a)),
4 as set forth in section 802 of the CIARDS Technical Cor-
5 rections Act of 1992 (Public Law 102–496; 106 Stat.
6 3196), is amended by striking “a participant may,” and
7 inserting “any participant who has a life-threatening
8 affliction or other critical medical condition may,”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall become effective on January 1, 1994,
11 and shall apply with respect to any annuity commencing
12 on or after that date.

13 **SEC. 10003. PAY LIMITATIONS.**

14 (a) ELIMINATION OF THE 1994 ANNUAL PAY AD-
15 JUSTMENT.—

16 (1) STATUTORY PAY SYSTEMS.—Notwithstand-
17 ing section 633 of the Treasury, Postal Service
18 and General Government Appropriations Act,
19 1991 (5 U.S.C. 5303 note) or any other provision
20 of law, the adjustment in rates of basic pay that is
21 scheduled to take effect in 1994 under section 5303
22 of title 5, United States Code, shall not take effect.

23 (2) OTHER PAY SYSTEMS.—

24 (A) IN GENERAL.—Notwithstanding any
25 other provision of law, any general pay adjust-

1 ment, similar to the adjustment referred to in
2 paragraph (1), which is scheduled to take effect
3 in 1994 with respect to any civilian officers or
4 employees in the executive branch (other than
5 those affected by paragraph (1)) shall not take
6 effect.

7 (B) EXCEPTIONS.—Subparagraph (A)
8 shall not apply with respect to—

9 (i) any pay adjustment required under
10 the terms of a contract, as in effect before
11 the date of the enactment of this Act; or

12 (ii) any alien or noncitizen of the
13 United States who occupies a position out-
14 side the United States.

15 (C) REGULATIONS.—The Office of Person-
16 nel Management may prescribe any regulations
17 it considers necessary for the administration of
18 this paragraph.

19 (b) MODIFICATION IN FORMULA FOR COMPUTING
20 ANNUAL PAY ADJUSTMENTS FOR 1995, 1996, AND
21 1997.—

22 (1) STATUTORY PAY SYSTEMS.—Section
23 5303(a) of title 5, United States Code, is amend-
24 ed—

1 (A) by striking “(a)” and inserting
2 “(a)(1)”; and

3 (B) by adding at the end the following:

4 “(2) Notwithstanding section 633 of the Treasury,
5 Postal Service and General Government Appropriations
6 Act, 1991 or any other provision of law, for purposes of
7 any adjustment scheduled to take effect under this section
8 in 1995, 1996, or 1997, paragraph (1) shall be deemed
9 to be amended by striking ‘equal to’ through ‘less than’
10 and inserting ‘equal to one and one-half percentage points
11 less than’.”.

12 (2) OTHER PAY SYSTEMS.—Section 704(a)(1)
13 of the Ethics Reform Act of 1989 (5 U.S.C. 5318
14 note) is amended by adding at the end the following:

15 “(C) SPECIAL RULE.—For purposes of any
16 pay adjustment scheduled to take effect in
17 1995, 1996, or 1997, subparagraph (B) shall
18 be deemed to be amended by striking ‘one-half
19 of 1 percent’ and inserting ‘one and one-half
20 percent’.”.

21 **SEC. 10004. PROVISIONS RELATING TO LOCALITY-BASED**
22 **COMPARABILITY PAYMENTS.**

23 (a) LOCALITY-BASED COMPARABILITY PAYMENTS.—

24 (1) CHANGE IN EFFECTIVE DATE OF PAY-
25 MENTS.—Section 5304(d)(2) of title 5, United

1 States Code, is amended by striking “January 1”
2 and inserting “July 1”.

3 (2) LIMITATION RELATING TO AGGREGATE
4 AMOUNT PAYABLE DURING CERTAIN PERIODS.—Sec-
5 tion 5304 of title 5, United States Code, is amend-
6 ed—

7 (A) by redesignating subsection (i) as sub-
8 section (j); and

9 (B) by inserting after subsection (h) the
10 following:

11 “(i)(1) Notwithstanding any other provision of this
12 section, comparability payments may not be established or
13 adjusted under this section in a manner that would cause
14 the resulting estimated total amount payable under this
15 section during the period which—

16 “(A) begins on July 1, 1994, and ends on June
17 30, 1995, to exceed \$1,800,000,000;

18 “(B) begins on July 1, 1995, and ends on June
19 30, 1996, to exceed \$2,500,000,000;

20 “(C) begins on July 1, 1996, and ends on June
21 30, 1997, to exceed \$3,300,000,000;

22 “(D) begins on July 1, 1997, and ends on June
23 30, 1998, to exceed \$4,200,000,000; or

24 “(E) begins on July 1, 1998, and ends on Sep-
25 tember 30, 1998, to exceed \$1,747,000,000.

1 “(2) If necessary in order to achieve compliance with
2 any of the respective limitations under paragraph (1), the
3 President may, in carrying out subsection (d)(2), specify
4 levels of comparability payments less than the minimum
5 which would otherwise be required under subsection
6 (a)(3).

7 “(3) The pay agent shall develop and include in the
8 appropriate reports under subsection (d)(1) the methodol-
9 ogy for making any estimates under this subsection, and
10 any such estimate shall be made in accordance with the
11 methodology so included in the then most recent report.

12 “(4) Whenever any authority under this subsection
13 is exercised, the President shall so indicate in his next re-
14 port under subsection (d)(3), including specific informa-
15 tion as to how such authority was exercised and the rea-
16 sons why it was so exercised.”.

17 (b) TEMPORARY CHANGE IN EFFECTIVE DATE OF
18 ANNUAL PAY ADJUSTMENTS UNDER SECTION 5303 OF
19 TITLE 5, UNITED STATES CODE.—Section 5303(a) of
20 title 5, United States Code (as amended by section
21 10003(b)(1)), is further amended by adding after para-
22 graph (2) of such section 5303(a) (as so amended) the
23 following:

24 “(3) Effective for the period beginning on January
25 1, 1995, and ending on December 31, 2003, paragraph

1 (1) shall be deemed to be amended by striking ‘January
2 1’ and inserting ‘July 1.’.’.

3 (c) REPEAL OF THE PROVISION EXCLUDING SENIOR
4 EXECUTIVES FROM THE LIMITATION GENERALLY APPLI-
5 CABLE ON THE ACCUMULATION OF ANNUAL LEAVE.—

6 (1) IN GENERAL.—Section 6304(f) of title 5,
7 United States Code, is repealed, effective as of Jan-
8 uary 1, 1994.

9 (2) SAVINGS PROVISION.—

10 (A) APPLICABILITY.—This paragraph shall
11 apply with respect to an individual—

12 (i) who, as of December 31, 1993, has
13 more than 30 days of annual leave to such
14 individual’s credit (or more than 45 days,
15 if the individual would be subject to section
16 6304(b) of such title) which were accrued
17 in any position described in section 6304(f)
18 of title 5, United States Code (as in effect
19 on the date of the enactment of this Act);
20 and

21 (ii) only for so long as such individual
22 remains continuously employed in any such
23 position (disregarding any break in service
24 of 3 days or less).

1 (B) STATEMENT OF THE RULE.—For pur-
2 poses of administering section 6304 of title 5,
3 United States Code, with respect to any individ-
4 ual to whom this paragraph applies—

5 (i) subsection (a) of such section shall
6 be deemed amended by striking “30” and
7 inserting the number corresponding to the
8 number of days determined for such indi-
9 vidual under subparagraph (A)(i); and

10 (ii) subsection (b) of such section shall
11 be deemed amended by striking “45” and
12 inserting the number corresponding to the
13 number of days determined for such indi-
14 vidual under subparagraph (A)(i).

15 (3) CONFORMING AMENDMENT.—Section
16 6304(a) of title 5, United States Code, is amended
17 by striking “(d), (e), (f), and (g)” and inserting “(d)
18 and (e)”.

19 (d) NO CASH AWARDS BETWEEN FISCAL YEARS
20 1994 THROUGH 1998.—

21 (1) DEFINITION.—For the purpose of this sub-
22 section, the term “cash award” means any cash
23 award, performance award, rank, or other form of
24 recognition entitling the recipient to any monetary
25 payment under subchapter I of chapter 45 of title 5,

1 United States Code, or section 5384, 5406, or 5407
2 of such title.

3 (2) RESTRICTION.—Notwithstanding any other
4 provision of law, no cash award may be awarded
5 during the period beginning on October 1, 1993, and
6 ending on September 30, 1998.

7 (e) REDUCTION OF FEDERAL WORKFORCE BY
8 150,000.—

9 (1) DEFINITION.—For the purpose of this sub-
10 section, the term “civilian employees in the executive
11 branch” means all civilian employees within the ex-
12 ecutive branch of the Government (other than in the
13 United States Postal Service or the Postal Rate
14 Commission).

15 (2) LIMITATIONS.—The average total number
16 of civilian employees in the executive branch may
17 not exceed—

18 (A) 2,095,200 in fiscal year 1994;

19 (B) 2,044,100 in fiscal year 1995;

20 (C) 2,010,100 in fiscal year 1996;

21 (D) 1,998,500 in fiscal year 1997; or

22 (E) 1,996,700 in fiscal year 1998.

23 (3) AVERAGING.—The average total number of
24 civilian employees in the executive branch in a fiscal
25 year shall, for purposes of this subsection, be the av-

1 erage number in such fiscal year, as determined
2 under regulations prescribed under paragraph (5).
3 Any such average shall be determined on a “full-
4 time equivalent” basis.

5 (4) VOLUNTARY MEASURES.—To the extent
6 practicable, any reductions necessary to achieve com-
7 pliance with any limitation under paragraph (2)
8 shall be effected through attrition or other voluntary
9 measures.

10 (5) REGULATIONS.—The President shall pre-
11 scribe regulations to carry out this subsection.

12 (f) PAY-LIMITATION PROVISIONS MADE APPLICABLE
13 TO CERTAIN EMPLOYEES IN THE JUDICIAL BRANCH.—
14 The Director of the Administrative Office of the United
15 States Courts shall take such measures as may be nec-
16 essary to ensure that the purposes of subsections (a) and
17 (b) of section 10003 and subsections (a)(1) (if applicable)
18 and (b) of this section are carried out with respect to em-
19 ployees who are subject to the personnel management sys-
20 tem established by the Director under section 3 of Public
21 Law 101–474 (28 U.S.C. 602 note).

1 **SEC. 10005. APPLICATION OF MEDICARE PART B LIMITS TO**
2 **PHYSICIANS' SERVICES FURNISHED TO FED-**
3 **ERAL EMPLOYEE HEALTH BENEFITS EN-**
4 **ROLLEES AGE 65 OR OLDER.**

5 (a) IN GENERAL.—Section 8904(b) of title 5, United
6 States Code, is amended—

7 (1) in paragraph (1) by inserting “(A)” after
8 “(b)(1)” and by adding at the end the following:

9 “(B)(i) A plan, other than a prepayment plan de-
10 scribed in section 8903(4), may not provide benefits, in
11 the case of any retired enrolled individual who is age 65
12 or older and is not entitled to Medicare supplementary
13 medical insurance benefits under part B of title XVIII of
14 the Social Security Act (42 U.S.C. 1395j et seq.), to pay
15 a charge imposed for physicians’ services (as defined in
16 section 1848(j) of such Act, 42 U.S.C. 1395w–4(j)) which
17 are covered for purposes of benefit payments under this
18 chapter and under such part, to the extent that such
19 charge exceeds the fee schedule amount under section
20 1848(a) of such Act (42 U.S.C. 1395w–4(a)).

21 “(ii) Physicians and suppliers who have in force par-
22 ticipation agreements with the Secretary of Health and
23 Human Services consistent with section 1842(h)(1) of
24 such Act (42 U.S.C. 1395u(h)(1)), whereby the participat-
25 ing provider accepts Medicare benefits (including allowable
26 deductible and coinsurance amounts) as full payment for

1 covered items and services shall accept equivalent benefit
2 and enrollee cost-sharing under this chapter as full pay-
3 ment for services described in clause (i). Physicians and
4 suppliers who are nonparticipating physicians and suppli-
5 ers for purposes of part B of title XVIII of such Act shall
6 not impose charges that exceed the limiting charge under
7 section 1848(g) of such Act (42 U.S.C. 1395w-4(g)) with
8 respect to services described in clause (i) provided to en-
9 rollees described in such clause. The Office of Personnel
10 Management shall notify a physician or supplier who is
11 found to have violated this clause and inform them of the
12 requirements of this clause and sanctions for such a viola-
13 tion. The Office of Personnel Management shall notify the
14 Secretary of Health and Human Services if a physician
15 or supplier is found to knowingly and willfully violate this
16 clause on a repeated basis and the Secretary of Health
17 and Human Services may invoke appropriate sanctions in
18 accordance with sections 1128A(a) and section 1848(g)(1)
19 of such Act (42 U.S.C. 1320a-7a(a), 1395w-4(g)(1)) and
20 applicable regulations.

21 “(C) If the Secretary of Health and Human Services
22 determines that a violation of this subsection warrants ex-
23 cluding a provider from participation for a specified period
24 under title XVIII of the Social Security Act, the Office

1 shall enforce a corresponding exclusion of such provider
2 for purposes of this chapter.”;

3 (2) in paragraph (3)(B)—

4 (A) by inserting “(i)” after “includes”; and

5 (B) by inserting before the period at the
6 end the following: “, and (ii) the fee schedule
7 amounts and limiting charges for physicians’
8 services established under section 1848 of such
9 Act (42 U.S.C. 1395w-4) and the identity of
10 participating physicians and suppliers who have
11 in force agreements with such Secretary under
12 section 1842(h) of such Act (42 U.S.C.
13 1395u(h))”; and

14 (3) by adding at the end the following:

15 “(4) The Director of the Office of Personnel Manage-
16 ment shall certify, before the first day of the fifth month
17 that begins before each contract year, that there is in ef-
18 fect an arrangement with the Secretary of Health and
19 Human Services under which, before the beginning of the
20 contract year—

21 “(A) physicians and suppliers (whether or not
22 participating) under the Medicare program will be
23 notified of the requirements of paragraph (1)(B);

24 “(B) enforcement procedures will be in place to
25 carry out such paragraph (including enforcement of

1 protections against overcharging of beneficiaries);
2 and

3 “(C) Medicare program information described
4 in paragraph (3)(B)(ii) will be supplied to carriers
5 under paragraph (3)(A).”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall apply with respect to contract years
8 beginning on or after January 1, 1995.

9 **SEC. 10006. TEMPORARY EXTENSION OF METHOD FOR DE-**
10 **TERMINING GOVERNMENT CONTRIBUTIONS**
11 **UNDER FEHBP IN THE ABSENCE OF A GOV-**
12 **ERNMENT-WIDE INDEMNITY BENEFIT PLAN.**

13 (a) IN GENERAL.—Public Law 101–76 (5 U.S.C.
14 8906 note) is amended in subsection (a)(1) by striking
15 “1993” and inserting “1998”.

16 (b) SENSE OF CONGRESS.—It is the sense of the
17 Congress that nothing in this section should be considered
18 to reflect any view on the appropriateness, merits, or tim-
19 ing, or any other aspect of any comprehensive health care
20 reform legislation.

21 **Subtitle B—Postal Service**

22 **SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED**
23 **STATES POSTAL SERVICE.**

24 (a) RELATING TO CORRECTED CALCULATIONS FOR
25 PAST RETIREMENT COLAs.—In addition to any other

1 payments required under section 8348(m) of title 5, Unit-
2 ed States Code, or any other provision of law, the United
3 States Postal Service shall pay into the Civil Service Re-
4 tirement and Disability Fund a total of \$693,000,000, of
5 which—

6 (1) at least one-third shall be paid not later
7 than September 30, 1995;

8 (2) at least two-thirds shall be paid not later
9 than September 30, 1996; and

10 (3) any remaining balance shall be paid not
11 later than September 30, 1997.

12 (b) RELATING TO CORRECTED CALCULATIONS FOR
13 PAST HEALTH BENEFITS.—In addition to any other pay-
14 ments required under section 8906(g)(2) of title 5, United
15 States Code, or any other provision of law, the United
16 States Postal Service shall pay into the Employees Health
17 Benefits Fund a total of \$348,000,000, of which—

18 (1) at least one-third shall be paid not later
19 than September 30, 1995;

20 (2) at least two-thirds shall be paid not later
21 than September 30, 1996; and

22 (3) any remaining balance shall be paid not
23 later than September 30, 1997.

1 **Subtitle C—Revenue Forgone**
2 **Reform**

3 **SEC. 10201. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This subtitle may be cited as the
5 “Revenue Forgone Reform Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this subtitle is as follows:

Sec. 10201. Short title; table of contents.

Sec. 10202. References.

Sec. 10203. Repeal of authorization of appropriations for mail sent at reduced rates of postage.

Sec. 10204. Establishing reduced rates of postage.

Sec. 10205. Eligibility of certain mailings for reduced rates of postage.

Sec. 10206. Provisions relating to rates for books and certain other materials.

Sec. 10207. Sense of Congress.

Sec. 10208. Technical corrections.

8 **SEC. 10202. REFERENCES.**

9 Except as otherwise expressly provided, whenever in
10 this subtitle an amendment or repeal is expressed in terms
11 of an amendment to, or a repeal of, a section or other
12 provision, the reference shall be considered to be made to
13 a section or other provision of title 39, United States
14 Code.

15 **SEC. 10203. REPEAL OF AUTHORIZATION OF APPROPRIA-**
16 **TIONS FOR MAIL SENT AT REDUCED RATES**
17 **OF POSTAGE.**

18 (a) IN GENERAL.—Section 2401(c) is amended—

19 (1) in the first sentence—

20 (A) by striking “if sections” through “had
21 not been enacted” and inserting “if sections

1 3217 and 3403–3406 had not been enacted’;
2 and

3 (B) by striking “such sections and Acts.”
4 and inserting “such sections.”; and
5 (2) in the second sentence—

6 (A) by striking “(i)”; and

7 (B) by striking “volume;” through “sched-
8 ules.” and inserting “volume.”.

9 (b) APPLICABILITY.—The amendments made by sub-
10 section (a) shall apply with respect to appropriations for
11 fiscal years beginning after September 30, 1993.

12 **SEC. 10204. ESTABLISHING REDUCED RATES OF POSTAGE.**

13 (a) RATES.—

14 (1) IN GENERAL.—Section 3626(a) is amended
15 to read as follows:

16 “(a)(1) For the purpose of this subsection—

17 “(A) the term ‘costs attributable’, as used with
18 respect to a class of mail or kind of mailer, means
19 the direct and indirect postal costs attributable to
20 such class of mail or kind of mailer (excluding any
21 other costs of the Postal Service);

22 “(B) the term ‘regular-rate category’ means
23 any class of mail or kind of mailer, other than a
24 class or kind referred to in paragraph (2)(A) or sec-
25 tion 2401(c); and

1 “(C) the term ‘institutional-costs contribution’,
2 as used with respect to a class of mail or kind of
3 mailer, means that portion of the estimated revenues
4 to the Postal Service from such class of mail or kind
5 of mailer which remains after subtracting an amount
6 equal to the estimated costs attributable to such
7 class of mail or kind of mailer.

8 “(2)(A) Except as provided in paragraph (3) or (4),
9 rates of postage for a class of mail or kind of mailer under
10 former section 4358, 4452(b), 4452(c), 4554(b), or
11 4554(c) of this title shall be established in a manner such
12 that the estimated revenues to be received by the Postal
13 Service from such class of mail or kind of mailer shall
14 be equal to the sum of—

15 “(i) the estimated costs attributable to such
16 class of mail or kind of mailer; and

17 “(ii) the product derived by multiplying the es-
18 timated costs referred to in clause (i) by the applica-
19 ble percentage under subparagraph (B).

20 “(B) The applicable percentage for any class of mail
21 or kind of mailer referred to in subparagraph (A) shall
22 be the product derived by multiplying—

23 “(i) the percentage which, for the most closely
24 corresponding regular-rate category, the institu-
25 tional-costs contribution for such category represents

1 relative to the estimated costs attributable to such
2 category of mail, times

3 “(ii)(I) one-twelfth, for fiscal year 1994;

4 “(II) one-sixth, for fiscal year 1995;

5 “(III) one-fourth, for fiscal year 1996;

6 “(IV) one-third, for fiscal year 1997;

7 “(V) five-twelfths, for fiscal year 1998; and

8 “(VI) one-half, for any fiscal year after fiscal
9 year 1998.

10 “(C) For temporary special authority to permit the
11 timely implementation of the preceding provisions of this
12 paragraph, see section 3642.

13 “(D) For purposes of establishing rates of postage
14 under this subchapter for any of the classes of mail or
15 kinds of mailers referred to in subparagraph (A),
16 subclauses (I) through (V) of subparagraph (B)(ii) shall
17 be deemed amended by striking the fraction specified in
18 each such subclause and inserting ‘one-half’.

19 “(3) The rates for the advertising portion of any mail
20 matter under former section 4358(d) or 4358(e) of this
21 title shall be equal to the rates for the advertising portion
22 of the most closely corresponding regular-rate category of
23 mail, except that if the advertising portion does not exceed
24 10 percent of the issue of the publication involved, the ad-

1 vertising portion shall be subject to the same rates as
2 apply to the nonadvertising portion.

3 “(4) The rates for any advertising under former sec-
4 tion 4358(f) of this title shall be equal to 75 percent of
5 the rates for advertising contained in the most closely cor-
6 responding regular-rate category of mail.”.

7 (2) SPECIAL AUTHORITY.—Subchapter III of
8 chapter 36 is amended by adding at the end the fol-
9 lowing:

10 **“§3642. Special authority relating to reduced-rate**
11 **categories of mail**

12 “(a) In order to permit the timely implementation of
13 section 3626(a)(2), the Postal Service may establish tem-
14 porary rates of postage for any class of mail or kind of
15 mailer referred to in section 3626(a)(2)(A).

16 “(b) Any exercise of authority under this section shall
17 be in conformance with the requirements of section
18 3626(a), subject to the following:

19 “(1) All ‘attributable costs’ and ‘institutional-
20 costs contributions’ assumed shall be the same as
21 those which were assumed for purposes of the then
22 most recent proceedings under subchapter II pursu-
23 ant to which rates of postage for the class of mail
24 or kind of mailer involved were last adjusted.

1 “(2) Any temporary rate established under this
2 section shall take effect upon such date as the
3 Postal Service may determine, except that—

4 “(A) such a rate may take effect only after
5 10 days’ notice in the Federal Register; and

6 “(B) no such rate may take effect after
7 September 30, 1998.

8 “(3) A temporary rate under this section may
9 remain in effect no longer than the last day of the
10 fiscal year in which it first takes effect.

11 “(4) Authority under this section may not be
12 exercised in a manner that would result in more
13 than 1 change taking effect under this section, dur-
14 ing the same fiscal year, in the rates of postage for
15 a particular class of mail or kind of mailer, except
16 as provided in paragraph (5).

17 “(5) Nothing in paragraph (4) shall prevent an
18 adjustment under this section in rates for a class of
19 mail or kind of mailer with respect to which any
20 rates took effect under this section earlier in the
21 same fiscal year if—

22 “(A) the rates established for such class of
23 mail or kind of mailer by the earlier adjustment
24 are superseded by new rates established under
25 subchapter II; and

1 “(B) authority under this paragraph has
2 not previously been exercised with respect to
3 such class of mail or kind of mailer based on
4 the new rates referred to in subparagraph (A).

5 “(c) The Postal Service may prescribe any regula-
6 tions which may be necessary to carry out this section,
7 including provisions governing the coordination of adjust-
8 ments under this section with any other adjustments
9 under this title.”.

10 (3) TECHNICAL AND CONFORMING AMEND-
11 MENTS.—

12 (A) SECTION 3626.—Section 3626(i) is re-
13 pealed.

14 (B) SECTION 3627.—

15 (i) IN GENERAL.—Section 3627 is
16 amended—

17 (I) by striking “sent at a free or
18 reduced rate under section 3217,
19 3403–3406, or 3626 of this title,”
20 and inserting “sent free of postage
21 under section 3217 or 3403–3406”;
22 and

23 (II) in the section heading by
24 striking “**and reduced**”.

1 (ii) TABLE OF CONTENTS.—The table
2 of contents for chapter 36 is amended—

3 (I) by striking the item relating
4 to section 3627 and inserting the
5 following:

“3627. Adjusting free rates.”;

6 and

7 (II) by inserting after the item
8 relating to section 3641 the following:

“3642. Special authority relating to reduced-rate categories of mail.”.

9 (b) AUTHORIZATION.—

10 (1) IN GENERAL.—Section 2401 is amended—

11 (A) by striking subsections (d) through (f);

12 (B) by redesignating subsections (g)
13 through (i) as subsections (e) through (g), re-
14 spectively;

15 (C) in subsection (f) (as so redesignated by
16 subparagraph (B)) by striking the second sen-
17 tence;

18 (D) in subsection (g) (as so redesignated
19 by subparagraph (B)) by striking “subsections
20 (b) and (d) of this section” and inserting “sub-
21 section (b)”;

22 (E) by inserting after subsection (c) the
23 following:

1 “(d) As reimbursement to the Postal Service for
2 losses which it incurred as a result of insufficient amounts
3 appropriated under section 2401(c) for fiscal years 1991
4 through 1993, and to compensate for the additional reve-
5 nues it is estimated the Postal Service would have received
6 under the provisions of section 3626(a), for the period be-
7 ginning on October 1, 1993, and ending on September 30,
8 1998, if the fraction specified in subclause (VI) of section
9 3626(a)(2)(B)(ii) were applied with respect to such period
10 (instead of the respective fractions specified in subclauses
11 (I) through (V) thereof), there are authorized to be appro-
12 priated to the Postal Service \$29,000,000 for each of
13 fiscal years 1994 through 2035.”.

14 (2) RATEMAKING LIMITATIONS.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), rates of postage may not be
17 established, under subchapter II of chapter 36
18 of title 39, United States Code, in a manner de-
19 signed to allow the United States Postal Service
20 to receive through revenues any portion of the
21 additional revenues (referred to in section
22 2401(d) of such title, as amended by paragraph
23 (1)(E)) for which amounts are authorized to be
24 appropriated under such section 2401(d).

1 (B) EXCEPTION.—If Congress fails to ap-
2 propriate an amount authorized under section
3 2401(d) of title 39, United States Code (as
4 amended by paragraph (1)(E)), rates for the
5 various classes of mail may be adjusted in ac-
6 cordance with the provisions of subchapter II of
7 chapter 36 of such title (excluding section 3627
8 thereof) such that the resulting increase in rev-
9 enues will equal the amount that Congress so
10 failed to appropriate.

11 (c) APPLICABILITY.—

12 (1) RATES.—The amendments made by sub-
13 section (a) shall apply with respect to rates for mail
14 sent after September 30, 1993.

15 (2) AUTHORIZATION.—The amendments made
16 by subsection (b) shall apply with respect to appro-
17 priations for fiscal years beginning after September
18 30, 1993.

19 **SEC. 10205. ELIGIBILITY OF CERTAIN MAILINGS FOR RE-**
20 **DUCTIONED RATES OF POSTAGE.**

21 (a) ADVERTISING.—Section 3626(j)(1) is amended—

22 (1) in subparagraph (B) by striking “or” after
23 the semicolon;

24 (2) in subparagraph (C) by striking the period
25 and inserting “; or”; and

1 (3) by adding at the end the following:

2 “(D) any product or service (other than any to
3 which subparagraph (A), (B), or (C) relates), if—

4 “(i) the sale of such product or the provid-
5 ing of such service is not substantially related
6 (aside from the need, on the part of the organi-
7 zation promoting such product or service, for
8 income or funds or the use it makes of the prof-
9 its derived) to the exercise or performance by
10 the organization of one or more of the purposes
11 constituting the basis for the organization’s au-
12 thorization to mail at such rates; or

13 “(ii) the mail matter involved is part of a
14 cooperative mailing (as defined under regula-
15 tions of the Postal Service) with any person or
16 organization not authorized to mail at the rates
17 for mail under former section 4452(b) or
18 4452(c) of this title;

19 except that—

20 “(I) any determination under clause (i)
21 that a product or service is not substantially re-
22 lated to a particular purpose shall be made
23 under regulations which shall be prescribed by
24 the Postal Service based on subsections (a) and

1 (c) of section 513 of the Internal Revenue Code
2 of 1986; and

3 “(II) clause (i) shall not apply if the prod-
4 uct involved is a periodical publication described
5 in subsection (m)(2) (including a subscription
6 to receive any such publication).”.

7 (b) PRODUCTS.—Section 3626 is amended by adding
8 at the end the following:

9 “(m)(1) In the administration of this section, the
10 rates for mail under former section 4452(b) or 4452(c)
11 of this title shall not apply to mail consisting of products,
12 unless such products—

13 “(A) were received by the organization as gifts
14 or contributions; or

15 “(B) are low cost articles (as defined by section
16 513(h)(2) of the Internal Revenue Code of 1986).

17 “(2) Paragraph (1) shall not apply with respect to
18 a periodical publication of a qualified nonprofit organiza-
19 tion.”.

20 (c) CERTIFICATION; VERIFICATION.—Section
21 3626(j)(3) is amended—

22 (1) by striking “(3)” and inserting “(3)(A)”;

23 and

24 (2) by adding at the end the following:

1 “(B) The Postal Service shall establish procedures to
2 carry out this paragraph, including procedures for mailer
3 certification of compliance with the conditions specified in
4 paragraph (1)(D) or subsection (m), as applicable, and
5 verification of such compliance.”.

6 (d) APPLICABILITY.—The amendments made by this
7 section shall apply with respect to mail sent, and the rates
8 for mail sent, after September 30, 1993.

9 **SEC. 10206. PROVISIONS RELATING TO RATES FOR BOOKS**
10 **AND CERTAIN OTHER MATERIALS.**

11 (a) IN GENERAL.—Section 3683(b) is amended to
12 read as follows:

13 “(b) The rates of postage under former section
14 4554(b)(1) of this title shall not be effective except with
15 respect to mailings which—

16 “(1) constitute materials specified in former
17 section 4554(b)(2) of this title; and

18 “(2) are sent between—

19 “(A) an institution, organization, or asso-
20 ciation listed in subparagraph (A) or (B) of
21 such former section 4554(b)(1) and any other
22 such institution, organization, or association;

23 “(B) an institution, organization, or asso-
24 ciation referred to in subparagraph (A) and any
25 individual (other than an individual having a fi-

1 nancial interest in the sale, promotion, or dis-
2 tribution of the materials involved); or

3 “(C) an institution, organization, or asso-
4 ciation referred to in subparagraph (A) and a
5 qualified nonprofit organization (as defined in
6 former section 4452(d) of this title) that is not
7 such an institution, organization, or associa-
8 tion.”.

9 (b) APPLICABILITY.—The amendment made by sub-
10 section (a) shall apply with respect to mail sent after Sep-
11 tember 30, 1993.

12 **SEC. 10207. SENSE OF CONGRESS.**

13 It is the sense of the Congress that any legislation,
14 enacted after September 30, 1994, which would have the
15 effect of expanding the classes of mail or kinds of mailers
16 eligible for reduced rates of postage should provide for suf-
17 ficient funding to ensure that neither any losses to the
18 United States Postal Service nor any increase in the rates
19 of postage for any of the other classes of mail or kinds
20 of mailers will result.

21 **SEC. 10208. TECHNICAL CORRECTIONS.**

22 (a) SECTION 410.—Section 410(b) is amended—

23 (1) in paragraph (8) by striking “and” after
24 the semicolon;

1 (2) in the first paragraph (9) by striking
2 “Chapter” and inserting “chapter”, and by striking
3 the period and inserting “; and”; and

4 (3) by designating the second paragraph (9) as
5 paragraph (10).

6 (b) SECTION 3202.—Section 3202(a) is amended—

7 (1) in paragraph (3) by adding “and” after the
8 semicolon; and

9 (2) in paragraph (4) by striking “; and” and
10 inserting a period.

11 (c) SECTION 3210.—The provisions of section 318(3)
12 of Public Law 101–163 (103 Stat. 1068), which amended
13 section 3210 of title 39, United States Code, shall be
14 treated as if, as enacted, the reference in such provisions
15 to “subparagraph (c)” had instead read “subparagraph
16 (C)”.

17 (d) SECTION 3601.—Section 3601(a) is amended by
18 striking “concent” and inserting “consent”.

19 (e) SECTION 3625.—Section 3625(d) is amended by
20 striking “section 3268” and inserting “section 3628”.

21 (f) SECTION 3626.—Section 3626 is amended by re-
22 designating the second subsection (k) as subsection (l).

1 **TITLE XI—COMMITTEE ON PUB-**
 2 **LIC WORKS AND TRANSPOR-**
 3 **TATION**

4 **SEC. 11001. AVIATION FEES FOR SERVICES.**

5 (a) IN GENERAL.—Section 313(f) of the Federal
 6 Aviation Act of 1958 (49 U.S.C. App. 1354(f)) is amended
 7 to read as follows:

8 “(f) FEES FOR SERVICES.—

9 “(1) IMPOSITION AND COLLECTION.—The fol-
 10 lowing fees are imposed and shall be collected for
 11 services rendered:

12 “(A) AIRCRAFT REGISTRATION FEES.—

13 “(i) GENERAL RULE.—For registra-
 14 tion of an aircraft, the fee to be collected
 15 from the owner of the aircraft in each fis-
 16 cal year beginning after September 30,
 17 1993, shall be determined under the fol-
 18 lowing table:

19

If the maximum certificated gross weight of the aircraft is:	Amount of fee is:
Not over 3,500 pounds	\$40.00
Over 3,500 lbs. but not over 6,500 lbs.	\$175.00
Over 6,500 lbs. but not over 10,000 lbs.	\$500.00
Over 10,000 lbs. but not over 100,000 lbs.	\$1,000.00
Over 100,000 lbs.	\$2,000.00.

20 If the ownership of the aircraft is also trans-
 21 ferred in such fiscal year, the fee to be collected

1 for registration of the aircraft in such fiscal
2 year under this subparagraph, as determined
3 from the table, shall be increased by such
4 amount as the Administrator shall determine so
5 that the average amount of the increase for all
6 aircraft collected under this sentence in such
7 fiscal year will be approximately \$200.00.

8 “(ii) EXEMPTIONS.—No fee shall be col-
9 lected under this subparagraph for registration
10 of an aircraft in a fiscal year if the aircraft—

11 “(I) is owned or operated by an air
12 carrier exclusively to provide air transpor-
13 tation;

14 “(II) is owned by, or operated exclu-
15 sively by or for, the United States Govern-
16 ment;

17 “(III) is registered under a dealer’s
18 aircraft registration certificate issued
19 under section 505 of this Act;

20 “(IV) is not originally certificated
21 with an engine driven electrical system or
22 has not subsequently been certified by the
23 Administrator with such a system in-
24 stalled; or

25 “(V) is a balloon or glider.

1 “(B) DESIGNATION AS AVIATION MEDICAL
2 EXAMINERS.—For designation of a person as
3 an aviation medical examiner, the fee to be col-
4 lected from such person in each fiscal year be-
5 ginning after September 30, 1993, shall be
6 \$500.

7 “(C) ISSUANCE OF CERTIFICATES TO PI-
8 LOTS.—After September 30, 1993, the fee to be
9 collected for issuance or renewal of an airman’s
10 certificate to a pilot shall be \$12. The fee shall
11 be collected from each pilot at least once every
12 3 fiscal years.

13 “(2) CONTINUATION OF FEE FOR PROCESSING
14 OF FORMS FOR MAJOR FUEL TANK ALTERATIONS.—

15 “(A) ESTABLISHMENT AND COLLEC-
16 TION.—The Administrator may establish such
17 fees as may be necessary to cover the costs as-
18 sociated with processing of forms for major re-
19 pairs and alterations of fuel tanks and fuel
20 systems of aircraft.

21 “(B) MAXIMUM AMOUNT.—The amount of
22 any fee under this subsection with respect to
23 processing of a form for a major repair or alter-
24 nation of a fuel tank or fuel system of an air-
25 craft may not exceed \$7.50. Such maximum

1 amount shall be adjusted annually by the Ad-
2 ministrator for changes in the Consumer Price
3 Index of All Urban Consumers published by the
4 Bureau of Labor Statistics of the Department
5 of Labor.

6 “(3) COLLECTION AND DEPOSIT IN TRUST
7 FUND.—The amounts of all fees established by or
8 under this subsection shall be collected by the Ad-
9 ministrator, or the Secretary of the Treasury for the
10 Administrator, and shall be deposited in the Airport
11 and Airway Trust Fund.”.

12 (b) CONFORMING AMENDMENT.—The portion of the
13 table of contents contained in the first section of such Act
14 relating to section 313 is amended by striking

“(f) Processing fees.”.

15 and inserting

“(f) Fees for services.”.

16 **SEC. 11002. RECREATIONAL USER FEES.**

17 (a) IN GENERAL.—Section 210 of the Flood Control
18 Act of 1968 (16 U.S.C. 460d-3) is amended—

19 (1) by striking “SEC. 210. No entrance” and
20 inserting the following:

21 **“SEC. 210. RECREATIONAL USER FEES.**

22 “(a) PROHIBITION ON ADMISSIONS FEES.—No en-
23 trance”;

24 (2) by striking the second sentence; and

1 (3) by adding at the end the following new sub-
2 section:

3 “(b) FEES FOR USE OF DEVELOPED RECREATION
4 SITES AND FACILITIES.—

5 “(1) ESTABLISHMENT AND COLLECTION.—Not-
6 withstanding section 4(b) of the Land and Water
7 Conservation Fund Act of 1965 (16 U.S.C. 460l-
8 6a(b)), the Secretary of the Army is authorized, sub-
9 ject to paragraphs (2) and (3), to establish and col-
10 lect fees for the use of developed recreation sites and
11 facilities, including campsites, swimming beaches,
12 and boat launching ramps.

13 “(2) EXEMPTION OF CERTAIN FACILITIES.—
14 The Secretary shall not establish or collect fees
15 under this subsection for the use or provision of
16 drinking water, wayside exhibits, general purpose
17 roads, overlook sites, picnic tables, toilet facilities,
18 surface water areas, undeveloped or lightly developed
19 shoreland, or general visitor information.

20 “(3) PER VEHICLE LIMIT.—The fee under this
21 subsection for use of a site or facility (other than an
22 overnight camping site or facility or any other site
23 or facility at which a fee is charged for use of the
24 site or facility as of the date of the enactment of this
25 paragraph) for persons entering the site or facility

1 by private, noncommercial vehicle shall not exceed
2 \$3 per day per vehicle. Such maximum amount may
3 be adjusted annually by the Secretary for changes in
4 the Consumer Price Index of All Urban Consumers
5 published by the Bureau of Labor Statistics of the
6 Department of Labor.

7 “(4) DEPOSIT INTO TREASURY ACCOUNT.—All
8 fees collected under this subsection shall be depos-
9 ited into the Treasury account for the Corps of En-
10 gineers established by section 4(i) of the Land and
11 Water Conservation Fund Act of 1965 (16 U.S.C.
12 460l-6a(i)).”.

13 (b) CONFORMING AMENDMENT FOR CAMPSITES.—
14 Section 4(b) of the Land and Water Conservation Fund
15 Act of 1965 (16 U.S.C. 460l-6a(b)) is amended by strik-
16 ing the next to the last sentence.

17 **TITLE XII—COMMITTEE ON**
18 **VETERANS AFFAIRS**

19 **SEC. 12001. SHORT TITLE.**

20 This title may be cited as the “Veterans Reconcili-
21 ation Act of 1993”.

1 **SEC. 12002. EXTENSION OF AUTHORITY TO REQUIRE THAT**
2 **CERTAIN VETERANS AGREE TO MAKE**
3 **COPAYMENTS IN EXCHANGE FOR RECEIVING**
4 **HEALTH-CARE BENEFITS.**

5 (a) HOSPITAL AND MEDICAL CARE.—Section
6 8013(e) of the Omnibus Budget Reconciliation Act of
7 1990 (Public Law 101–508; 38 U.S.C. 1710 note) is
8 amended—

9 (1) by striking out “September 30, 1992” in
10 the first sentence and inserting in lieu thereof “Sep-
11 tember 30, 1998”; and

12 (2) by striking out the second sentence.

13 (b) OUTPATIENT MEDICATIONS.—Section 1722A(c)
14 of title 38, United States Code, is amended—

15 (1) by striking out “September 30, 1992” in
16 the first sentence and inserting in lieu thereof “Sep-
17 tember 30, 1998”; and

18 (2) by striking out the second sentence.

19 **SEC. 12003. EXTENSION OF AUTHORITY FOR MEDICAL CARE**
20 **COST RECOVERY.**

21 (a) IN GENERAL.—Section 1729(a) of title 38, Unit-
22 ed States Code, is amended—

23 (1) in paragraph (1), by striking out “non-
24 service-connected”; and

25 (2) in paragraph (2)—

1 (A) by inserting “disability and, during the
2 period before October 1, 1998, to a service-con-
3 nected” after “non-service-connected” in the
4 matter preceding subparagraph (A); and

5 (B) by striking out “before August 1,
6 1994,” in subparagraph (E) and inserting in
7 lieu thereof “before October 1, 1998,”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 subsection (a) shall apply with respect to care and services
10 furnished under chapter 17 of title 38, United States
11 Code, after September 30, 1993.

12 **SEC. 12004. EXTENSION OF AUTHORITY FOR CERTAIN IN-**
13 **COME VERIFICATION PROVISIONS UNDER**
14 **THE OMNIBUS BUDGET RECONCILIATION**
15 **ACT OF 1990.**

16 (a) AUTHORITY FOR SECRETARY OF VETERANS AF-
17 FAIRS TO OBTAIN INFORMATION.—Section 5317(g) of
18 title 38, United States Code, is amended by striking out
19 “September 30, 1997” and inserting in lieu thereof “Sep-
20 tember 30, 1998”.

21 (b) AUTHORITY FOR SECRETARY OF TREASURY TO
22 PROVIDE INFORMATION.—Subparagraph (D) of section
23 6103(l)(7) of the Internal Revenue Code of 1986 is
24 amended by striking out “September 30, 1997” in the last

1 sentence and inserting in lieu thereof “September 30,
2 1998”.

3 **SEC. 12005. EXTENSION OF LIMITATION ON PENSION FOR**
4 **CERTAIN RECIPIENTS OF MEDICAID-COV-**
5 **ERED NURSING HOME CARE.**

6 Section 5503(f)(7) of title 38, United States Code,
7 is amended by striking out “September 30, 1997” and in-
8 serting in lieu thereof “September 30, 1998”.

9 **SEC. 12006. DENIAL OF FISCAL YEAR 1994 COST-OF-LIVING**
10 **ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.**

11 During fiscal year 1994, no increase may be provided
12 in the rates of dependency and indemnity compensation
13 in effect under section 1311(a)(3) of title 38, United
14 States Code.

15 **SEC. 12007. EXTENSION OF PROCEDURES APPLICABLE TO**
16 **LIQUIDATION SALES ON DEFAULTED HOME**
17 **LOANS GUARANTEED BY THE DEPARTMENT**
18 **OF VETERANS AFFAIRS.**

19 (a) INCLUSION OF LOSSES.—Section 3732(c) of title
20 38, United States Code, is amended—

21 (1) in paragraph (1)(C), by striking out “re-
22 sale,” and inserting in lieu thereof “resale (including
23 losses sustained on the resale of the property),”; and

1 (2) in paragraph (11), by striking out “Decem-
2 ber 31, 1992” and inserting in lieu thereof “Septem-
3 ber 30, 1998”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a)(1) shall apply to all liquidation sales occur-
6 ring on or after October 1, 1993.

7 **SEC. 12008. INCREASE IN HOME LOAN FEES.**

8 Paragraph (6) of section 3729(a) of title 38, United
9 States Code, is amended to read as follows:

10 “(6) With respect to a loan closed after September
11 30, 1993, and before October 1, 1998, for which a fee
12 is collected under paragraph (1), the amount of such fee,
13 as computed under paragraph (2), shall be increased by
14 0.75 percent of the total loan amount other than in the
15 case of a loan described in subparagraph (A), (D)(ii), or
16 (E) of paragraph (2).”.

17 **SEC. 12009. REDUCTION OF FISCAL YEAR 1994 COST-OF-LIV-**
18 **ING ADJUSTMENT FOR MONTGOMERY GI**
19 **BILL BENEFITS.**

20 (a) BENEFITS PAYABLE UNDER CHAPTER 30.—Sec-
21 tion 3015(g)(1) of title 38, United States Code, is amend-
22 ed by inserting “less one percentage point” after “June
23 30, 1993,”.

24 (b) BENEFITS PAYABLE UNDER SELECTED RE-
25 SERVE PROGRAM.—Section 2131(b)(2)(A) of title 10,

1 United States Code, is amended by inserting “less one per-
2 centage point” after “June 30, 1993,”.

3 (c) TECHNICAL AMENDMENTS.—(1) Section 301(c)
4 of Public Law 102–568 (106 Stat. 4326) is amended by
5 striking out “Section 3015(f)” and inserting in lieu there-
6 of “Section 3015(g) (as redesignated by section
7 307(a)(1))”.

8 (2) Section 307(a) of such Public Law (106 Stat.
9 4328) is amended by striking out “(as amended by section
10 301)”.

11 (3) The amendments made by paragraphs (1) and (2)
12 shall apply as if included in the enactment of Public Law
13 102–568.

14 **SEC. 12010. LIMITATION ON CHILDREN ELIGIBLE FOR SUR-**
15 **VIVORS’ AND DEPENDENTS’ EDUCATIONAL**
16 **ASSISTANCE.**

17 (a) REVISION IN DEFINITION OF CHILDREN ELIGI-
18 BLE.—Section 3501(a)(2) of title 38, United States Code,
19 is amended by inserting “, but does not include an individ-
20 ual who is not the natural or legally adopted child of the
21 parent from whom eligibility under this chapter is de-
22 rived” before the period at the end.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) does not apply with respect to any individ-
25 ual who, before October 1, 1993, files an original applica-

1 tion for educational assistance under chapter 35 of title
2 38, United States Code.

3 **TITLE XIII—COMMITTEE ON**
4 **WAYS AND MEANS—SAVINGS**
5 **Subtitle A—Old-Age, Survivors, and**
6 **Disability Insurance Program**

TABLE OF CONTENTS OF SUBTITLE

- Sec. 13001. Explicit requirements for maintenance of telephone access to local offices of the Social Security Administration.
- Sec. 13002. Expansion of State option to exclude service of election officials or election workers from coverage.
- Sec. 13003. Use of social security numbers by States and local governments and Federal district courts for jury selection purposes.
- Sec. 13004. Authorization for all States to extend coverage to State and local policemen and firemen under existing coverage agreements.
- Sec. 13005. Limited exemption for Canadian ministers from certain self-employment tax liability.
- Sec. 13006. Exclusion of totalization benefits from the application of the windfall elimination provision.
- Sec. 13007. Exclusion of military reservists from application of the government pension offset and windfall elimination provisions.
- Sec. 13008. Repeal of the facility-of-payment provision.
- Sec. 13009. Maximum family benefits in guarantee cases.
- Sec. 13010. Authorization for disclosure by the Secretary of Health and Human Services of information for purposes of public or private epidemiological and similar research.
- Sec. 13011. Improvement and clarification of provisions prohibiting misuse of symbols, emblems, or names in reference to social security programs and agencies.
- Sec. 13012. Increased penalties for unauthorized disclosure of social security information.
- Sec. 13013. Simplification of employment taxes on domestic services.
- Sec. 13014. Increase in authorized period for extension of time to file annual earnings report.
- Sec. 13015. Allocations to Federal Disability Insurance Trust Fund.
- Sec. 13016. Extension of disability insurance program demonstration project authority.
- Sec. 13017. Technical and clerical amendments.
- Sec. 13018. Cross-matching of social security account number information and employer identification number information maintained by the Department of Agriculture.
- Sec. 13019. Prohibition of misuse of Department of the Treasury names, symbols, etc.
- Sec. 13020. Availability and use of death information under the old-age, survivors, and disability insurance program.

1 **SEC. 13001. EXPLICIT REQUIREMENTS FOR MAINTENANCE**
2 **OF TELEPHONE ACCESS TO LOCAL OFFICES**
3 **OF THE SOCIAL SECURITY ADMINISTRATION.**

4 (a) MAINTENANCE OF SERVICE TO LOCAL OF-
5 FICES.—

6 (1) IN GENERAL.—Section 5110(a) of the Om-
7 nibus Budget Reconciliation Act of 1990 (104 Stat.
8 1388-272) is amended by adding at the end the fol-
9 lowing new sentence: “In carrying out the require-
10 ments of the preceding sentence, the Secretary shall
11 reestablish and maintain in service at least the same
12 number of telephone lines to each such local office
13 as was in place as of such date, including telephone
14 sets for connections to such lines.”.

15 (2) EFFECTIVE DATE.—The Secretary of
16 Health and Human Services shall ensure that the
17 requirements of the amendment made by paragraph
18 (1) are carried out no later than 90 days after the
19 date of the enactment of this Act.

20 (3) GAO REPORT.—The Comptroller General of
21 the United States shall make an independent deter-
22 mination of the number of telephone lines to each
23 local office of the Social Security Administration
24 which are in place as of 90 days after the enactment
25 of this Act and shall report his findings to the Com-
26 mittee on Ways and Means of the House of Rep-

1 representatives and the Committee on Finance of the
2 Senate no later than 150 days after the date of the
3 enactment of this Act.

4 (b) MAINTENANCE OF TOLL-FREE TELEPHONE
5 NUMBER SERVICE.—The Secretary of Health and Human
6 Services shall ensure that toll-free telephone service pro-
7 vided by the Social Security Administration is maintained
8 at a level which is at least equal to that in effect on the
9 date of the enactment of this Act.

10 **SEC. 13002. EXPANSION OF STATE OPTION TO EXCLUDE**
11 **SERVICE OF ELECTION OFFICIALS OR ELEC-**
12 **TION WORKERS FROM COVERAGE.**

13 (a) LIMITATION ON MANDATORY COVERAGE OF
14 STATE ELECTION OFFICIALS AND ELECTION WORKERS
15 WITHOUT STATE RETIREMENT SYSTEM.—

16 (1) AMENDMENT TO SOCIAL SECURITY ACT.—
17 Section 210(a)(7)(F)(iv) of the Social Security Act
18 (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section
19 11332(a) of the Omnibus Budget Reconciliation Act
20 of 1990) is amended by striking “\$100” and insert-
21 ing “\$1,000 with respect to service performed dur-
22 ing 1994, and the adjusted amount determined
23 under section 218(c)(8)(B) for any subsequent year
24 with respect to service performed during such subse-
25 quent year”.

1 (2) AMENDMENT TO FICA.—Section
2 3121(b)(7)(F)(iv) of the Internal Revenue Code of
3 1986 (as amended by section 11332(b) of the Omni-
4 bus Budget Reconciliation Act of 1990) is amended
5 by striking “\$100” and inserting “\$1,000 with re-
6 spect to service performed during 1994, and the
7 adjusted amount determined under section
8 218(c)(8)(B) of the Social Security Act for any sub-
9 sequent year with respect to service performed dur-
10 ing such subsequent year”.

11 (b) CONFORMING AMENDMENTS RELATING TO MED-
12 ICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

13 (1) AMENDMENT TO SOCIAL SECURITY ACT.—
14 Section 210(p)(2)(E) of the Social Security Act (42
15 U.S.C. 410(p)(2)(E)) is amended by striking
16 “\$100” and inserting “\$1,000 with respect to serv-
17 ice performed during 1994, and the adjusted amount
18 determined under section 218(c)(8)(B) for any sub-
19 sequent year with respect to service performed dur-
20 ing such subsequent year”.

21 (2) AMENDMENT TO FICA.—Section
22 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code
23 of 1986 is amended by striking “\$100” and insert-
24 ing “\$1,000 with respect to service performed dur-
25 ing 1994, and the adjusted amount determined

1 under section 218(c)(8)(B) of the Social Security
2 Act for any subsequent year with respect to service
3 performed during such subsequent year”.

4 (c) AUTHORITY FOR STATES TO MODIFY COVERAGE
5 AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS
6 AND ELECTION WORKERS.—Section 218(c)(8) of the So-
7 cial Security Act (42 U.S.C. 418(c)(8)) is amended—

8 (1) by striking “on or after January 1, 1968,”
9 and inserting “at any time”;

10 (2) by striking “\$100” and inserting “\$1,000
11 with respect to service performed during 1994, and
12 the adjusted amount determined under subpara-
13 graph (B) for any subsequent year with respect to
14 service performed during such subsequent year”;
15 and

16 (3) by striking the last sentence and inserting
17 the following new sentence: “Any modification of an
18 agreement pursuant to this paragraph shall be effec-
19 tive with respect to services performed in and after
20 the calendar year in which the modification is mailed
21 or delivered by other means to the Secretary.”.

22 (d) INDEXATION OF EXEMPT AMOUNT.—Section
23 218(c)(8) of such Act (as amended by subsection (c)) is
24 further amended—

25 (1) by inserting “(A)” after “(8)”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(B) For each year after 1994, the Secretary shall
4 adjust the amount referred to in subparagraph (A) at the
5 same time and in the same manner as is provided under
6 section 215(a)(1)(B)(ii) with respect to the amounts re-
7 ferred to in section 215(a)(1)(B)(i), except that—

8 “(i) for purposes of this subparagraph, 1992
9 shall be substituted for the calendar year referred to
10 in section 215(a)(1)(B)(ii)(II), and

11 “(ii) such amount as so adjusted, if not a mul-
12 tiple of \$100, shall be rounded to the next higher
13 multiple of \$100 where such amount is a multiple of
14 \$50 and to the nearest multiple of \$100 in any other
15 case.

16 The Secretary shall determine and publish in the Federal
17 Register each adjusted amount determined under this sub-
18 paragraph not later than November 1 preceding the year
19 for which the adjustment is made.”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 subsections (a), (b), and (c) shall apply with respect to
22 service performed on or after January 1, 1994.

1 **SEC. 13003. USE OF SOCIAL SECURITY NUMBERS BY STATES**
2 **AND LOCAL GOVERNMENTS AND FEDERAL**
3 **DISTRICT COURTS FOR JURY SELECTION**
4 **PURPOSES.**

5 (a) IN GENERAL.—Section 205(c)(2) of the Social
6 Security Act (42 U.S.C. 405(c)(2)) is amended—

7 (1) in subparagraph (B)(i), by striking “(E)” in
8 the matter preceding subclause (I) and inserting
9 “(F)”;

10 (2) by redesignating subparagraphs (E) and
11 (F) as subparagraphs (F) and (G), respectively; and

12 (3) by inserting after subparagraph (D) the fol-
13 lowing:

14 “(E)(i) It is the policy of the United States that—

15 “(I) any State (or any political subdivision of a
16 State) may utilize the social security account num-
17 bers issued by the Secretary for the additional pur-
18 poses described in clause (ii) if such numbers have
19 been collected and are otherwise utilized by such
20 State (or political subdivision) in accordance with
21 applicable law, and

22 “(II) any district court of the United States
23 may use, for such additional purposes, any such so-
24 cial security account numbers which have been so
25 collected and are so utilized by any State.

1 “(ii) The additional purposes described in this clause
2 are the following:

3 “(I) identifying duplicate names of individuals
4 on master lists used for jury selection purposes, and

5 “(II) identifying on such master lists those indi-
6 viduals who are ineligible to serve on a jury by rea-
7 son of their conviction of a felony.

8 “(iii) To the extent that any provision of Federal law
9 enacted before the date of the enactment of this subpara-
10 graph is inconsistent with the policy set forth in clause
11 (i), such provision shall, on and after that date, be null,
12 void, and of no effect.

13 “(iv) For purposes of this subparagraph, the term
14 ‘State’ has the meaning such term has in subparagraph
15 (D).”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall take effect on the date of the enact-
18 ment of this Act.

19 **SEC. 13004. AUTHORIZATION FOR ALL STATES TO EXTEND**
20 **COVERAGE TO STATE AND LOCAL POLICE-**
21 **MEN AND FIREMEN UNDER EXISTING COV-**
22 **ERAGE AGREEMENTS.**

23 (a) IN GENERAL.—Section 218(l) of the Social Secu-
24 rity Act (42 U.S.C. 418(l)) is amended—

1 (1) in paragraph (1), by striking “(1)” after
2 “(l)”, and by striking “the State of” and all that fol-
3 lows through “prior to the date of enactment of this
4 subsection” and inserting “a State entered into pur-
5 suant to this section”; and

6 (2) by striking paragraph (2).

7 (b) CONFORMING AMENDMENT.—Section
8 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is
9 amended by striking “agreements with the States named
10 in” and inserting “State agreements modified as provided
11 in”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to modifications filed
14 by States after the date of the enactment of this Act.

15 **SEC. 13005. LIMITED EXEMPTION FOR CANADIAN MIN-**
16 **ISTERS FROM CERTAIN SELF-EMPLOYMENT**
17 **TAX LIABILITY.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of law, if—

20 (1) an individual performed services described
21 in section 1402(c)(4) of the Internal Revenue Code
22 of 1986 which are subject to tax under section 1401
23 of such Code,

24 (2) such services were performed in Canada at
25 a time when no agreement between the United

1 States and Canada pursuant to section 233 of the
2 Social Security Act was in effect, and

3 (3) such individual was required to pay con-
4 tributions on the earnings from such services under
5 the social insurance system of Canada,
6 then such individual may file a certificate under this sec-
7 tion in such form and manner, and with such official, as
8 may be prescribed in regulations issued under chapter 2
9 of such Code. Upon the filing of such certificate, notwith-
10 standing any judgment which has been entered to the con-
11 trary, such individual shall be exempt from payment of
12 such tax with respect to services described in paragraphs
13 (1) and (2) and from any penalties or interest for failure
14 to pay such tax or to file a self-employment tax return
15 as required under section 6017 of such Code.

16 (b) PERIOD FOR FILING.—A certificate referred to
17 in subsection (a) may be filed only during the 180-day
18 period commencing with the date on which the regulations
19 referred to in subsection (a) are issued.

20 (c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—
21 A certificate referred to in subsection (a) shall be effective
22 for taxable years ending after December 31, 1978, and
23 before January 1, 1985.

24 (d) RESTRICTION ON CREDITING OF EXEMPT SELF-
25 EMPLOYMENT INCOME.—In any case in which an individ-

1 ual is exempt under this section from paying a tax im-
2 posed under section 1401 of the Internal Revenue Code
3 of 1986, any income on which such tax would have been
4 imposed but for such exemption shall not constitute self-
5 employment income under section 211(b) of the Social Se-
6 curity Act (42 U.S.C. 411(b)), and, if such individual's
7 primary insurance amount has been determined under sec-
8 tion 215 of such Act (42 U.S.C. 415), notwithstanding
9 section 215(f)(1) of such Act, the Secretary of Health and
10 Human Services shall recompute such primary insurance
11 amount so as to take into account the provisions of this
12 subsection. The recomputation under this subsection shall
13 be effective with respect to benefits for months following
14 approval of the certificate of exemption.

15 **SEC. 13006. EXCLUSION OF TOTALIZATION BENEFITS FROM**
16 **THE APPLICATION OF THE WINDFALL ELIMI-**
17 **NATION PROVISION.**

18 (a) IN GENERAL.—Section 215(a)(7) of the Social
19 Security Act (42 U.S.C. 415(a)(7)) is amended—

20 (1) in subparagraph (A), by striking “but ex-
21 cluding” and all that follows through “1937” and
22 inserting “but excluding (I) a payment under the
23 Railroad Retirement Act of 1974 or 1937, and (II)
24 a payment by a social security system of a foreign
25 country based on an agreement concluded between

1 the United States and such foreign country pursuant
2 to section 233”; and

3 (2) in subparagraph (E), by inserting after “in
4 the case of an individual” the following: “whose eli-
5 gibility for old-age or disability insurance benefits is
6 based on an agreement concluded pursuant to sec-
7 tion 233 or an individual”.

8 (b) CONFORMING AMENDMENT RELATING TO BENE-
9 FITS UNDER 1939 ACT.—Section 215(d)(3) of such Act
10 (42 U.S.C. 415(d)(3)) is amended by striking “but exclud-
11 ing” and all that follows through “1937” and inserting
12 “but excluding (I) a payment under the Railroad Retire-
13 ment Act of 1974 or 1937, and (II) a payment by a social
14 security system of a foreign country based on an agree-
15 ment concluded between the United States and such for-
16 eign country pursuant to section 233”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply (notwithstanding section 215(f)(1)
19 of the Social Security Act (42 U.S.C. 415(f)(1))) with re-
20 spect to benefits payable for months after October 1993.

1 **SEC. 13007. EXCLUSION OF MILITARY RESERVISTS FROM**
2 **APPLICATION OF THE GOVERNMENT PEN-**
3 **SION OFFSET AND WINDFALL ELIMINATION**
4 **PROVISIONS.**

5 (a) EXCLUSION FROM GOVERNMENT PENSION OFF-
6 SET PROVISIONS.—Subsections (b)(4), (c)(2), (e)(7),
7 (f)(2), and (g)(4) of section 202 of the Social Security Act
8 (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4))
9 are each amended—

10 (1) in subparagraph (A)(ii), by striking “unless
11 subparagraph (B) applies.”;

12 (2) in subparagraph (A), by striking “The” in
13 the matter following clause (ii) and inserting “unless
14 subparagraph (B) applies. The”;

15 (3) in subparagraph (B), by redesignating the
16 existing matter as clause (ii), and by inserting before
17 such clause (ii) (as so redesignated) the following:

18 “(B)(i) Subparagraph (A)(i) shall not apply with re-
19 spect to monthly periodic benefits based wholly on service
20 as a member of a uniformed service (as defined in section
21 210(m)).”.

22 (b) EXCLUSION FROM WINDFALL ELIMINATION
23 PROVISIONS.—Section 215(a)(7)(A) of such Act (as
24 amended by section 13006(a) of this Act) and section
25 215(d)(3) of such Act (as amended by section 13006(b)
26 of this Act) are each further amended—

1 (1) by striking “and” before “(II)”; and

2 (2) by striking “section 233” and inserting
3 “section 233, and (III) a payment based wholly on
4 service as a member of a uniformed service (as de-
5 fined in section 210(m))”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply (notwithstanding section 215(f) of
8 the Social Security Act) with respect to benefits payable
9 for months after October 1993.

10 **SEC. 13008. REPEAL OF THE FACILITY-OF-PAYMENT PROVI-**
11 **SION.**

12 (a) REPEAL OF RULE PRECLUDING REDISTRIBUTION
13 UNDER FAMILY MAXIMUM.—Section 203(i) of the Social
14 Security Act (42 U.S.C. 403(i)) is repealed.

15 (b) COORDINATION UNDER FAMILY MAXIMUM OF
16 REDUCTION IN BENEFICIARY’S AUXILIARY BENEFITS
17 WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER
18 BENEFICIARY UNDER EARNINGS TEST.—Section
19 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended
20 by striking “section 222(b). Whenever” and inserting the
21 following: “section 222(b). Notwithstanding the preceding
22 sentence, any reduction under this subsection in the case
23 of an individual who is entitled to a benefit under sub-
24 section (b), (c), (d), (e), (f), (g), or (h) of section 202 for

1 any month on the basis of the same wages and self-em-
2 ployment income as another person—

3 “(A) who also is entitled to a benefit under sub-
4 section (b), (c), (d), (e), (f), (g), or (h) of section
5 202 for such month,

6 “(B) who does not live in the same household
7 as such individual, and

8 “(C) whose benefit for such month is suspended
9 (in whole or in part) pursuant to subsection (h)(3)
10 of this section,

11 shall be made before the suspension under subsection
12 (h)(3). Whenever”.

13 (c) CONFORMING AMENDMENT APPLYING EARNINGS
14 REPORTING REQUIREMENT DESPITE SUSPENSION OF
15 BENEFITS.—The third sentence of section 203(h)(1)(A)
16 of such Act (42 U.S.C. 403(h)(1)(A)) is amended by strik-
17 ing “Such report need not be made” and all that follows
18 through “The Secretary may grant” and inserting the fol-
19 lowing: “Such report need not be made for any taxable
20 year—

21 “(i) beginning with or after the month in which
22 such individual attained age 70, or

23 “(ii) if benefit payments for all months (in such
24 taxable year) in which such individual is under age
25 70 have been suspended under the provisions of the

1 first sentence of paragraph (3) of this subsection,
2 unless—

3 “(I) such individual is entitled to benefits
4 under subsection (b), (c), (d), (e), (f), (g), or
5 (h) of section 202,

6 “(II) such benefits are reduced under sub-
7 section (a) of this section for any month in such
8 taxable year, and

9 “(III) in any such month there is another
10 person who also is entitled to benefits under
11 subsection (b), (c), (d), (e), (f), (g), or (h) of
12 section 202 on the basis of the same wages and
13 self-employment income and who does not live
14 in the same household as such individual.

15 The Secretary may grant”.

16 (d) CONFORMING AMENDMENT DELETING SPECIAL
17 INCOME TAX TREATMENT OF BENEFITS NO LONGER RE-
18 QUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the
19 Internal Revenue Code of 1986 (relating to income tax
20 on social security benefits) is amended by striking the last
21 sentence.

22 (e) EFFECTIVE DATES.—

23 (1) The amendments made by subsections (a),
24 (b), and (c) shall apply with respect to benefits pay-
25 able for months after December 1994.

1 (2) The amendment made by subsection (d)
2 shall apply with respect to benefits received after
3 December 31, 1994, in taxable years ending after
4 such date.

5 **SEC. 13009. MAXIMUM FAMILY BENEFITS IN GUARANTEE**
6 **CASES.**

7 (a) IN GENERAL.—Section 203(a) of the Social Secu-
8 rity Act (42 U.S.C. 403(a)) is amended by adding at the
9 end the following new paragraph:

10 “(10)(A) Subject to subparagraphs (B) and (C)—

11 “(i) the total monthly benefits to which bene-
12 ficiaries may be entitled under sections 202 and 223
13 for a month on the basis of the wages and self-
14 employment income of an individual whose primary
15 insurance amount is computed under section
16 215(a)(2)(B)(i) shall equal the total monthly bene-
17 fits which were authorized by this section with re-
18 spect to such individual’s primary insurance amount
19 for the last month of his prior entitlement to disabil-
20 ity insurance benefits, increased for this purpose by
21 the general benefit increases and other increases
22 under section 215(i) that would have applied to such
23 total monthly benefits had the individual remained
24 entitled to disability insurance benefits until the
25 month in which he became entitled to old-age insur-

1 ance benefits or reentitled to disability insurance
2 benefits or died, and

3 “(ii) the total monthly benefits to which bene-
4 ficiaries may be entitled under sections 202 and 223
5 for a month on the basis of the wages and self-
6 employment income of an individual whose primary
7 insurance amount is computed under section
8 215(a)(2)(C) shall equal the total monthly benefits
9 which were authorized by this section with respect to
10 such individual’s primary insurance amount for the
11 last month of his prior entitlement to disability in-
12 surance benefits.

13 “(B) In any case in which—

14 “(i) the total monthly benefits with respect to
15 such individual’s primary insurance amount for the
16 last month of his prior entitlement to disability in-
17 surance benefits was computed under paragraph (6),
18 and

19 “(ii) the individual’s primary insurance amount
20 is computed under subparagraph (B)(i) or (C) of
21 section 215(a)(2) by reason of the individual’s enti-
22 tlement to old-age insurance benefits or death,
23 the total monthly benefits shall equal the total monthly
24 benefits that would have been authorized with respect to
25 the primary insurance amount for the last month of his

1 prior entitlement to disability insurance benefits if such
2 total monthly benefits had been computed without regard
3 to paragraph (6).

4 “(C) This paragraph shall apply before the applica-
5 tion of paragraph (3)(A), and before the application of
6 section 203(a)(1) of this Act as in effect in December
7 1978.”.

8 (b) CONFORMING AMENDMENT.—Section 203(a)(8)
9 of such Act (42 U.S.C. 403(a)(8)) is amended by striking
10 “Subject to paragraph (7),” and inserting “Subject to
11 paragraph (7) and except as otherwise provided in para-
12 graph (10)(C),”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply for the purpose of determining the
15 total monthly benefits to which beneficiaries may be enti-
16 tled under sections 202 and 223 of the Social Security
17 Act based on the wages and self-employment income of
18 an individual who—

19 (1) becomes entitled to an old-age insurance
20 benefit under section 202(a) of such Act,

21 (2) becomes reentitled to a disability insurance
22 benefit under section 223 of such Act, or

23 (3) dies,

24 after October 1993.

1 **SEC. 13010. AUTHORIZATION FOR DISCLOSURE BY THE SEC-**
2 **RETARY OF HEALTH AND HUMAN SERVICES**
3 **OF INFORMATION FOR PURPOSES OF PUBLIC**
4 **OR PRIVATE EPIDEMIOLOGICAL AND SIMI-**
5 **LAR RESEARCH.**

6 (a) IN GENERAL.—Section 1106 of the Social Secu-
7 rity Act (42 U.S.C. 1306) is amended—

8 (1) by redesignating subsections (d) and (e) as
9 subsections (e) and (f), respectively;

10 (2) in subsection (f) (as so redesignated), by
11 striking “subsection (d)” and inserting “subsection
12 (e)”; and

13 (3) by inserting after subsection (c) the follow-
14 ing new subsection:

15 “(d) Notwithstanding any other provision of this sec-
16 tion, in any case in which—

17 “(1) information regarding whether an individ-
18 ual is shown on the records of the Secretary as
19 being alive or deceased is requested from the Sec-
20 retary for purposes of epidemiological or similar re-
21 search which the Secretary finds may reasonably be
22 expected to contribute to a national health interest,
23 and

24 “(2) the requester agrees to reimburse the Sec-
25 retary for providing such information and to comply
26 with limitations on safeguarding and rerelease or

1 redisclosure of such information as may be specified
2 by the Secretary,
3 the Secretary shall comply with such request, except to
4 the extent that compliance with such request would con-
5 stitute a violation of the terms of any contract entered
6 into under section 205(r).”.

7 (b) AVAILABILITY OF INFORMATION RETURNS RE-
8 GARDING WAGES PAID EMPLOYEES.—Section 6103(l)(5)
9 of the Internal Revenue Code of 1986 (relating to disclo-
10 sure of returns and return information to the Department
11 of Health and Human Services for purposes other than
12 tax administration) is amended—

13 (1) by striking “for the purpose of” and insert-
14 ing “for the purpose of—”;

15 (2) by striking “carrying out, in accordance
16 with an agreement” and inserting the following:

17 “(A) carrying out, in accordance with an
18 agreement”;

19 (3) by striking “program.” and inserting “pro-
20 gram; or”; and

21 (4) by adding at the end the following new sub-
22 paragraph:

23 “(B) providing information regarding the
24 mortality status of individuals for epidemiolog-

1 ical and similar research in accordance with
2 section 1106(d) of the Social Security Act.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to requests for infor-
5 mation made after the date of the enactment of this Act.

6 **SEC. 13011. IMPROVEMENT AND CLARIFICATION OF PROVI-**
7 **SIONS PROHIBITING MISUSE OF SYMBOLS,**
8 **EMBLEMS, OR NAMES IN REFERENCE TO SO-**
9 **CIAL SECURITY PROGRAMS AND AGENCIES.**

10 (a) PROHIBITION OF UNAUTHORIZED REPRODUC-
11 TION, REPRINTING, OR DISTRIBUTION FOR FEE OF CER-
12 TAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the
13 Social Security Act (42 U.S.C. 1320b–10(a)) is amend-
14 ed—

15 (1) by redesignating paragraphs (1) and (2) as
16 subparagraphs (A) and (B), respectively;

17 (2) by inserting “(1)” after “(a)”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(2) No person may, for a fee, reproduce, reprint,
21 or distribute any item consisting of a form, application,
22 or other publication of the Social Security Administration
23 unless such person has obtained specific, written author-
24 ization for such activity in accordance with regulations
25 which the Secretary shall prescribe.”.

1 (b) ADDITION TO PROHIBITED WORDS, LETTERS,
2 SYMBOLS, AND EMBLEMS.—Paragraph (1) of section
3 1140(a) of such Act (as redesignated by subsection (a))
4 is further amended—

5 (1) in subparagraph (A) (as redesignated), by
6 striking “Administration’, the letters ‘SSA’ or
7 ‘HCFA’,” and inserting “Administration’, ‘Depart-
8 ment of Health and Human Services’, ‘Health and
9 Human Services’, ‘Supplemental Security Income
10 Program’, or ‘Medicaid’, the letters ‘SSA’, ‘HCFA’,
11 ‘DHHS’, ‘HHS’, or ‘SSI’,”; and

12 (2) in subparagraph (B) (as redesignated), by
13 striking “Social Security Administration” each place
14 it appears and inserting “Social Security Adminis-
15 tration, Health Care Financing Administration, or
16 Department of Health and Human Services”, and
17 by striking “or of the Health Care Financing Ad-
18 ministration”.

19 (c) EXEMPTION FOR USE OF WORDS, LETTERS,
20 SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOV-
21 ERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph
22 (1) of section 1140(a) of such Act (as redesignated by sub-
23 section (a)) is further amended by adding at the end the
24 following new sentence: “The preceding provisions of this
25 subsection shall not apply with respect to the use by any

1 agency or instrumentality of a State or political subdivi-
2 sion of a State of any words or letters which identify an
3 agency or instrumentality of such State or of a political
4 subdivision of such State or the use by any such agency
5 or instrumentality of any symbol or emblem of an agency
6 or instrumentality of such State or a political subdivision
7 of such State.”.

8 (d) INCLUSION OF REASONABLENESS STANDARD.—
9 Section 1140(a)(1) of such Act (as amended by the pre-
10 ceding provisions of this section) is further amended, in
11 the matter following subparagraph (B) (as redesignated),
12 by striking “convey” and inserting “convey, or in a man-
13 ner which reasonably could be interpreted or construed as
14 conveying.”.

15 (e) INEFFECTIVENESS OF DISCLAIMERS.—Sub-
16 section (a) of section 1140 of such Act (as amended by
17 the preceding provisions of this section) is further amend-
18 ed by adding at the end the following new paragraph:

19 “(3) Any determination of whether the use of one or
20 more words, letters, symbols, or emblems (or any combina-
21 tion or variation thereof) in connection with an item de-
22 scribed in paragraph (1) or the reproduction, reprinting,
23 or distribution of an item described in paragraph (2) is
24 a violation of this subsection shall be made without regard
25 to any inclusion in such item (or any so reproduced, re-

1 printed, or distributed copy thereof) of a disclaimer of af-
2 filiation with the United States Government or any par-
3 ticular agency or instrumentality thereof.”.

4 (f) VIOLATIONS WITH RESPECT TO INDIVIDUAL
5 ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C.
6 1320b–10(b)(1)) is amended by adding at the end the fol-
7 lowing new sentence: “In the case of any items referred
8 to in subsection (a)(1) consisting of pieces of mail, each
9 such piece of mail which contains one or more words, let-
10 ters, symbols, or emblems in violation of subsection (a)
11 shall represent a separate violation. In the case of any
12 item referred to in subsection (a)(2), the reproduction, re-
13 printing, or distribution of such item shall be treated as
14 a separate violation with respect to each copy thereof so
15 reproduced, reprinted, or distributed.”.

16 (g) ELIMINATION OF CAP ON AGGREGATE LIABILITY
17 AMOUNT.—

18 (1) REPEAL.—Paragraph (2) of section 1140(b)
19 of such Act (42 U.S.C. 1320b–10(b)(2)) is repealed.

20 (2) CONFORMING AMENDMENTS.—Section
21 1140(b) of such Act is further amended—

22 (A) by striking “(1) Subject to paragraph
23 (2), the” and inserting “The”;

1 (B) by redesignating subparagraphs (A)
2 and (B) as paragraphs (1) and (2), respectively;
3 and

4 (C) in paragraph (1) (as redesignated), by
5 striking “subparagraph (B)” and inserting
6 “paragraph (2)”.

7 (h) REMOVAL OF FORMAL DECLINATION REQUIRE-
8 MENT.—Section 1140(c)(1) of such Act (42 U.S.C.
9 1320b–10(c)(1)) is amended by inserting “and the first
10 sentence of subsection (c)” after “and (i)”.

11 (i) PENALTIES RELATING TO SOCIAL SECURITY AD-
12 MINISTRATION DEPOSITED IN OASI TRUST FUND.—Sec-
13 tion 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2))
14 is amended in the second sentence by striking “United
15 States.” and inserting “United States, except that, to the
16 extent that such amounts are recovered under this section
17 as penalties imposed for misuse of words, letters, symbols,
18 or emblems relating to the Social Security Administration,
19 such amounts shall be deposited into the Federal Old-Age
20 and Survivor’s Insurance Trust Fund.”.

21 (j) ENFORCEMENT.—Section 1140 of such Act (42
22 U.S.C. 1320b–10) is amended by adding at the end the
23 following new subsection:

1 “(d) The preceding provisions of this section shall be
2 enforced through the Office of Inspector General of the
3 Department of Health and Human Services.”.

4 (k) ANNUAL REPORTS.—Section 1140 of such Act
5 (as amended by the preceding provisions of this section)
6 is further amended by adding at the end the following new
7 subsection:

8 “(e) The Secretary shall include in the annual report
9 submitted pursuant to section 704 a report on the oper-
10 ation of this section during the year covered by such an-
11 nual report. Such report shall specify—

12 “(1) the number of complaints of violations of
13 this section received by the Social Security Adminis-
14 tration during the year,

15 “(2) the number of cases in which a notice of
16 violation of this section was sent by the Social Secu-
17 rity Administration during the year requesting that
18 an individual cease activities in violation of this
19 section,

20 “(3) the number of complaints of violations of
21 this section referred by the Social Security Adminis-
22 tration to the Inspector General in the Department
23 of Health and Human Services during the year,

1 “(4) the number of investigations of violations
2 of this section undertaken by the Inspector General
3 during the year,

4 “(5) the number of cases in which a demand
5 letter was sent during the year assessing a civil
6 money penalty under this section,

7 “(6) the total amount of civil money penalties
8 assessed under this section during the year,

9 “(7) the number of requests for hearings filed
10 during the year pursuant to subsection (c)(1) of this
11 section and section 1128A(c)(2),

12 “(8) the disposition during such year of hear-
13 ings filed pursuant to sections 1140(c)(1) and
14 1128A(c)(2), and

15 “(9) the total amount of civil money penalties
16 under this section deposited into the Federal Old-
17 Age and Survivors Insurance Trust Fund during the
18 year.”.

19 (l) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to violations occurring
21 after the date of the enactment of this Act.

1 **SEC. 13012. INCREASED PENALTIES FOR UNAUTHORIZED**
2 **DISCLOSURE OF SOCIAL SECURITY INFORMA-**
3 **TION.**

4 (a) UNAUTHORIZED DISCLOSURE.—Section 1106(a)
5 of the Social Security Act (42 U.S.C. 1306(a)) is amend-
6 ed—

7 (1) by striking “misdemeanor” and inserting
8 “felony”;

9 (2) by striking “\$1,000” and inserting
10 “\$10,000 for each occurrence of a violation”; and

11 (3) by striking “one year” and inserting “5
12 years”.

13 (b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Sec-
14 tion 1107(b) of such Act (42 U.S.C. 1307(b)) is amend-
15 ed—

16 (1) by inserting “social security account num-
17 ber,” after “information as to the”;

18 (2) by striking “misdemeanor” and inserting
19 “felony”;

20 (3) by striking “\$1,000” and inserting
21 “\$10,000 for each occurrence of a violation”; and

22 (4) by striking “one year” and inserting “5
23 years”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to violations occurring on or after
26 the date of the enactment of this Act.

1 **SEC. 13013. SIMPLIFICATION OF EMPLOYMENT TAXES ON**
2 **DOMESTIC SERVICES.**

3 (a) COORDINATION OF COLLECTION OF DOMESTIC
4 SERVICE EMPLOYMENT WITH COLLECTION OF INCOME
5 TAXES.—

6 (1) IN GENERAL.—Chapter 25 of the Internal
7 Revenue Code of 1986 (relating to general provi-
8 sions relating to employment taxes) is amended by
9 adding at the end thereof the following new section:

10 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**
11 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**
12 **TION OF INCOME TAXES.**

13 “(a) GENERAL RULE.—Except as otherwise provided
14 in this section—

15 “(1) returns with respect to domestic service
16 employment taxes shall be made on a calendar year
17 basis,

18 “(2) any such return for any calendar year
19 shall be filed on or before the 15th day of the fourth
20 month following the close of the employer’s taxable
21 year which begins in such calendar year, and

22 “(3) no requirement to make deposits (or to
23 pay installments under section 6157) shall apply
24 with respect to such taxes.

25 “(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-
26 JECT TO ESTIMATED TAX PROVISIONS.—

1 “(1) IN GENERAL.—Solely for purposes of sec-
2 tion 6654, domestic service employment taxes im-
3 posed with respect to any calendar year shall be
4 treated as a tax imposed by chapter 2 for the tax-
5 able year of the employer which begins in such cal-
6 endar year.

7 “(2) ANNUALIZATION.—Under regulations pre-
8 scribed by the Secretary, appropriate adjustments
9 shall be made in the application of section
10 6654(d)(2) in respect of the amount treated as tax
11 under paragraph (1).

12 “(3) TRANSITIONAL RULE.—For purposes of
13 applying section 6654 to a taxable year beginning in
14 1993, the amount referred to in clause (ii) of section
15 6654(d)(1)(B) shall be increased by 90 percent of
16 the amount treated as tax under paragraph (1) for
17 such taxable year.

18 “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—
19 For purposes of this section, the term ‘domestic service
20 employment taxes’ means—

21 “(1) any taxes imposed by chapter 21 or 23 on
22 remuneration paid for domestic service in a private
23 home of the employer, and

1 “(2) any amount withheld from such remunera-
2 tion pursuant to an agreement under section
3 3402(p).

4 For purposes of this subsection, the term ‘domestic service
5 in a private home of the employer’ does not include service
6 described in section 3121(g)(5).

7 “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR
8 OTHER EMPLOYMENT TAXES.—To the extent provided in
9 regulations prescribed by the Secretary, this section shall
10 not apply to any employer for any calendar year if such
11 employer is liable for any tax under this subtitle with re-
12 spect to remuneration for services other than domestic
13 service in a private home of the employer.

14 “(e) GENERAL REGULATORY AUTHORITY.—The Sec-
15 retary shall prescribe such regulations as may be nec-
16 essary or appropriate to carry out the purposes of this
17 section. Such regulations may treat domestic service em-
18 ployment taxes as taxes imposed by chapter 1 for purposes
19 of coordinating the assessment and collection of such em-
20 ployment taxes with the assessment and collection of do-
21 mestic employers’ income taxes.

22 “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO
23 COLLECT STATE UNEMPLOYMENT TAXES.—

24 “(1) IN GENERAL.—The Secretary is hereby
25 authorized to enter into an agreement with any

1 State to collect, as the agent of such State, such
2 State's unemployment taxes imposed on remunera-
3 tion paid for domestic service in a private home of
4 the employer. Any taxes to be collected by the Sec-
5 retary pursuant to such an agreement shall be treat-
6 ed as domestic service employment taxes for pur-
7 poses of this section.

8 “(2) TRANSFERS TO STATE ACCOUNT.—Any
9 amount collected under an agreement referred to in
10 paragraph (1) shall be transferred by the Secretary
11 to the account of the State in the Unemployment
12 Trust Fund.

13 “(3) SUBTITLE F MADE APPLICABLE.—For
14 purposes of subtitle F, any amount required to be
15 collected under an agreement under paragraph (1)
16 shall be treated as a tax imposed by chapter 23.

17 “(4) STATE.—For purposes of this subsection,
18 the term ‘State’ has the meaning given such term by
19 section 3306(j)(1).”

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 25 of such Code is amended by
22 adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes.”

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to remuneration paid

1 in calendar years beginning after December 31,
2 1993.

3 (4) EXPANDED INFORMATION TO EMPLOY-
4 ERS.—The Secretary of the Treasury or his delegate
5 shall prepare and make available information on the
6 Federal tax obligations of employers with respect to
7 employees performing domestic service in a private
8 home of the employer. Such information shall also
9 include a statement that such employers may have
10 obligations with respect to such employees under
11 State laws relating to unemployment insurance and
12 workers compensation.

13 (b) THRESHOLD REQUIREMENT FOR SOCIAL SECUR-
14 RITY TAXES.—

15 (1) AMENDMENTS OF INTERNAL REVENUE
16 CODE.—

17 (A) Subparagraph (B) of section
18 3121(a)(7) of the Internal Revenue Code of
19 1986 (defining wages) is amended to read as
20 follows:

21 “(B) cash remuneration paid by an em-
22 ployer in any calendar year to an employee for
23 domestic service in a private home of the em-
24 ployer (within the meaning of subsection (y)), if
25 the cash remuneration paid in such year by the

1 employer to the employee for such service is less
2 than the applicable dollar threshold (as defined
3 in subsection (y)) for such year;”.

4 (B) Section 3121 of such Code is amended
5 by adding at the end thereof the following new
6 subsection:

7 “(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For
8 purposes of subsection (a)(7)(B)—

9 “(1) EXCLUSION FOR CERTAIN FARM SERV-
10 ICE.—The term ‘domestic service in a private home
11 of the employer’ does not include service described
12 in subsection (g)(5).

13 “(2) APPLICABLE DOLLAR THRESHOLD.—The
14 term ‘applicable dollar threshold’ means \$1,800. In
15 the case of calendar years after 1994, the Secretary
16 of Health and Human Services shall adjust such
17 \$1,800 amount at the same time and in the same
18 manner as under section 215(a)(1)(B)(ii) of the So-
19 cial Security Act with respect to the amounts re-
20 ferred to in section 215(a)(1)(B)(i) of such Act, ex-
21 cept that, for purposes of this subparagraph, 1992
22 shall be substituted for the calendar year referred to
23 in section 215(a)(1)(B)(ii)(II) of such Act. If the
24 amount determined under the preceding sentence is

1 not a multiple of \$50, such amount shall be rounded
2 to the nearest multiple of \$50.”

3 (C) The second sentence of section 3102(a)
4 of such Code is amended—

5 (i) by striking “calendar quarter”
6 each place it appears and inserting “cal-
7 endar year”, and

8 (ii) by striking “\$50” and inserting
9 “the applicable dollar threshold (as defined
10 in section 3121(y)(2)) for such year”.

11 (2) AMENDMENT OF SOCIAL SECURITY ACT.—
12 Subparagraph (B) of section 209(a)(6) of the Social
13 Security Act (42 U.S.C. 409(a)(6)(B)) is amended
14 to read as follows:

15 “(B) Cash remuneration paid by an employer in
16 any calendar year to an employee for domestic serv-
17 ice in a private home of the employer, if the cash re-
18 muneration paid in such year by the employer to the
19 employee for such service is less than the applicable
20 dollar threshold (as defined in section 3121(y)(2) of
21 the Internal Revenue Code of 1986) for such year.
22 As used in this subparagraph, the term ‘domestic
23 service in a private home of the employer’ does not
24 include service described in section 210(f)(5).”

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to remuneration paid
3 in calendar years beginning after December 31,
4 1993.

5 (4) RELIEF FROM LIABILITY FOR CERTAIN
6 UNDERPAYMENT AMOUNTS.—

7 (A) IN GENERAL.—On and after the date
8 of the enactment of this Act, an underpayment
9 to which this paragraph applies (and any pen-
10 alty, addition to tax, and interest with respect
11 to such underpayment) shall not be assessed
12 (or, if assessed, shall not be collected).

13 (B) UNDERPAYMENTS TO WHICH PARA-
14 GRAPH APPLIES.—This paragraph shall apply
15 to an underpayment to the extent of the
16 amount thereof which would not be an
17 underpayment if—

18 (i) the amendments made by para-
19 graph (1) had applied to all calendar years
20 after 1950 and before 1994, and

21 (ii) the applicable dollar threshold for
22 any such calendar year were the amount
23 determined under the following table:

In the case of calendar year:	The applicable dollar threshold is:
1951, 1952, or 1953	\$ 200
1954, 1955, 1956, or 1957	250
1958, 1959, 1960, 1961, or 1962	300

1963, 1964, 1965, or 1966	350
1967, 1968, 1969	400
1970	450
1971, 1972, or 1973	500
1974 or 1975	600
1976	650
1977	700
1978	750
1979	800
1980	850
1981	900
1982	1,000
1983	1,100
1984	1,200
1985	1,250
1986	1,300
1987	1,350
1988	1,400
1989	1,500
1990	1,550
1991	1,600
1992	1,700
1993	1,750

1 **SEC. 13014. INCREASE IN AUTHORIZED PERIOD FOR EXTEN-**
2 **SION OF TIME TO FILE ANNUAL EARNINGS**
3 **REPORT.**

4 (a) IN GENERAL.—Section 203(h)(1)(A) of the Social
5 Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the
6 last sentence by striking “three months” and inserting
7 “four months”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply with respect to reports of earn-
10 ings for taxable years ending on or after December 31,
11 1993.

1 **SEC. 13015. ALLOCATIONS TO FEDERAL DISABILITY INSUR-**
2 **ANCE TRUST FUND.**

3 (a) ALLOCATION WITH RESPECT TO WAGES.—Sec-
4 tion 201(b)(1) of the Social Security Act (42 U.S.C.
5 401(b)(1)) is amended to read as follows:

6 “(1) 1.75 percent of the wages (as defined in
7 section 3121 of the Internal Revenue Code of 1986)
8 paid after December 31, 1992, and reported to the
9 Secretary of the Treasury or his delegate pursuant
10 to subtitle F of the Internal Revenue Code of 1986,
11 which wages shall be certified by the Secretary of
12 Health and Human Services on the basis of the
13 records of wages established and maintained by such
14 Secretary in accordance with such reports; and”.

15 (b) ALLOCATION WITH RESPECT TO SELF-EMPLOY-
16 MENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C.
17 401(b)(2)) is amended to read as follows:

18 “(2) 1.75 percent of the self-employment in-
19 come (as defined in section 1402 of the Internal
20 Revenue Code of 1986) reported to the Secretary of
21 the Treasury or his delegate on tax returns under
22 subtitle F of the Internal Revenue Code of 1986 for
23 any taxable year beginning after December 31,
24 1992, which self-employment income shall be cer-
25 tified by the Secretary of Health and Human Serv-
26 ices on the basis of the records of self-employment

1 income established and maintained by the Secretary
2 of Health and Human Services in accordance with
3 such returns.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to wages paid after
6 December 31, 1992, and self-employment income for tax-
7 able years beginning after such date.

8 (d) STUDY ON RISING COSTS OF DISABILITY BENE-
9 FITS.—

10 (1) IN GENERAL.—As soon as practicable after
11 the date of the enactment of this Act, the Secretary
12 of Health and Human Services shall conduct a com-
13 prehensive study of the reasons for rising costs pay-
14 able from the Federal Disability Insurance Trust
15 Fund.

16 (2) MATTERS TO BE INCLUDED IN STUDY.—In
17 conducting the study under this subsection, the Sec-
18 retary shall—

19 (A) determine the relative importance of
20 the following factors in increasing the costs
21 payable from the Trust Fund:

22 (i) increased numbers of applications
23 for benefits;

24 (ii) higher rates of benefit allowances;

25 and

1 (iii) decreased rates of benefit termi-
2 nations; and

3 (B) identify, to the extent possible, under-
4 lying social, economic, demographic, pro-
5 grammatic, and other trends responsible for
6 changes in disability benefit applications, allow-
7 ances, and terminations.

8 (3) REPORT.—Not later than December 31,
9 1995, the Secretary shall transmit a report to the
10 Committee on Ways and Means of the House of
11 Representatives and the Committee on Finance of
12 the Senate setting forth the results of the study con-
13 ducted under this subsection, together with any rec-
14 ommendations for legislative changes which the
15 Secretary determines appropriate.

16 **SEC. 13016. EXTENSION OF DISABILITY INSURANCE PRO-**
17 **GRAM DEMONSTRATION PROJECT AUTHOR-**
18 **ITY.**

19 (a) IN GENERAL.—Section 505 of the Social Security
20 Disability Amendments of 1980 (Public Law 96–265), as
21 amended by section 12101 of the Consolidated Omnibus
22 Budget Reconciliation Act of 1985 (Public Law 99–272),
23 section 10103 of the Omnibus Budget Reconciliation Act
24 of 1989 (Public Law 101–239), and section 5120 of the

1 Omnibus Budget Reconciliation Act of 1990 (Public Law
2 101–508) is further amended—

3 (1) in paragraph (3) of subsection (a), by strik-
4 ing “June 10, 1993” and inserting “June 10,
5 1996”;

6 (2) in paragraph (4) of subsection (a), by strik-
7 ing “1992” and inserting “1995”; and

8 (3) in subsection (c), by striking “October 1,
9 1993” and inserting “June 9, 1996”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 13017. TECHNICAL AND CLERICAL AMENDMENTS.**

14 (a) AMENDMENTS TO TITLE II OF THE SOCIAL SE-
15 CURITY ACT.—

16 (1) Section 201(a) of the Social Security Act
17 (42 U.S.C. 401(a)) is amended, in the matter follow-
18 ing clause (4), by striking “and and” and inserting
19 “and”.

20 (2) Section 202(d)(8)(D)(ii) of such Act (42
21 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a pe-
22 riod at the end and by adjusting the left hand
23 margination thereof so as to align with section
24 202(d)(8)(D)(i) of such Act.

1 (3) Section 202(q)(1)(A) of such Act (42
2 U.S.C. 402(q)(1)(A)) is amended by striking the
3 dash at the end.

4 (4) Section 202(q)(9) of such Act (42 U.S.C.
5 402(q)(9)) is amended, in the matter preceding sub-
6 paragraph (A), by striking “parargaph” and insert-
7 ing “paragraph”.

8 (5) Section 202(t)(4)(D) of such Act (42
9 U.S.C. 402(t)(4)(D)) is amended by inserting “if
10 the” before “Secretary” the second and third places
11 it appears.

12 (6) Clauses (i) and (ii) of section 203(f)(5)(C)
13 of such Act (42 U.S.C. 403(f)(5)(C)) are amended
14 by adjusting the left-hand margination thereof so as
15 to align with clauses (i) and (ii) of section
16 203(f)(5)(B) of such Act.

17 (7) Paragraph (3)(A) and paragraph (3)(B) of
18 section 205(b) of such Act (42 U.S.C. 405(b)) are
19 amended by adjusting the left-hand margination
20 thereof so as to align with the matter following
21 section 205(b)(2)(C) of such Act.

22 (8) Section 205(c)(2)(B)(iii) of such Act (42
23 U.S.C. 405(c)(2)(B)(iii)) is amended by striking
24 “non-public” and inserting “nonpublic”.

1 (9) Section 205(c)(2)(C) of such Act (42 U.S.C.
2 405(c)(2)(C)) is amended—

3 (A) by striking the clause (vii) added by
4 section 2201(c) of Public Law 101–624; and

5 (B) by redesignating the clause (iii) added
6 by section 2201(b)(3) of Public Law 101–624,
7 clause (iv), clause (v), clause (vi), and the
8 clause (vii) added by section 1735(b) of Public
9 Law 101–624 as clause (iv), clause (v), clause
10 (vi), clause (vii), and clause (viii), respectively;

11 (C) in clause (v) (as redesignated), by
12 striking “subclause (I) of”, and by striking
13 “subclause (II) of clause (i)” and inserting
14 “clause (ii)”; and

15 (D) in clause (viii)(IV) (as redesignated),
16 by inserting “a social security account number
17 or” before “a request for”.

18 (10) The heading for section 205(j) of such Act
19 (42 U.S.C. 405(j)) is amended to read as follows:

20 “Representative Payees”.

21 (11) The heading for section 205(s) of such Act
22 (42 U.S.C. 405(s)) is amended to read as follows:

1 “Notice Requirements”.

2 (12) Section 208(c) of such Act (42 U.S.C.
3 408(c)) is amended by striking “subsection (g)” and
4 inserting “subsection (a)(7)”.

5 (13) Section 210(a)(5)(B)(i)(V) of such Act (42
6 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking
7 “section 105(e)(2)” and inserting “section
8 104(e)(2)”.

9 (14) Section 211(a) of such Act (42 U.S.C.
10 411(a)) is amended—

11 (A) in paragraph (13), by striking “and”
12 at the end; and

13 (B) in paragraph (14), by striking the pe-
14 riod and inserting “; and”.

15 (15) Section 213(c) of such Act (42 U.S.C.
16 413(c)) is amended by striking “section” the first
17 place it appears and inserting “sections”.

18 (16) Section 215(a)(5)(B)(i) of such Act (42
19 U.S.C. 415(a)(5)(B)(i)) is amended by striking
20 “subsection” the second place it appears and insert-
21 ing “subsections”.

22 (17) Section 215(f)(7) of such Act (42 U.S.C.
23 415(f)(7)) is amended by inserting a period after
24 “1990”.

1 (18) Subparagraph (F) of section 218(c)(6) of
2 such Act (42 U.S.C. 418(c)(6)) is amended by ad-
3 justing the left-hand margination thereof so as to
4 align with section 218(c)(6)(E) of such Act.

5 (19) Section 223(i) of such Act (42 U.S.C.
6 423(i)) is amended by adding at the beginning the
7 following heading:

8 “Limitation on Payments to Prisoners”.

9 (b) RELATED AMENDMENTS.—

10 (1) Section 603(b)(5)(A) of Public Law 101-
11 649 (amending section 202(n)(1) of the Social Secu-
12 rity Act) (104 Stat. 5085) is amended by inserting
13 “under” before “paragraph (1),” and by striking
14 “(17), or (18)” and inserting “(17), (18), or (19)”,
15 effective as if this paragraph were included in such
16 section 603(b)(5)(A).

17 (2) Section 10208(b)(1) of Public Law 101-
18 239 (amending section 230(b)(2)(A) of the Social
19 Security Act) (103 Stat. 2477) is amended by strik-
20 ing “230(b)(2)(A)” and “430(b)(2)(A)” and insert-
21 ing “230(b)(2)” and “430(b)(2)”, respectively, effec-
22 tive as if this paragraph were included in such sec-
23 tion 10208(b)(1).

24 (c) CONFORMING, CLERICAL AMENDMENTS UPDAT-
25 ING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN

1 TITLE II OF THE SOCIAL SECURITY ACT TO THE INTER-
2 NAL REVENUE CODE.—

3 (1)(A) Section 201(a) of such Act (42 U.S.C.
4 401(a)) is amended—

5 (i) by striking clauses (1) and (2);

6 (ii) in clause (3), by striking “(3) the taxes
7 imposed” and all that follows through “Decem-
8 ber 31, 1954,” and inserting “(1) the taxes im-
9 posed by chapter 21 (other than sections
10 3101(b) and 3111(b)) of the Internal Revenue
11 Code of 1986 with respect to wages (as defined
12 in section 3121 of such Code) reported to the
13 Secretary of the Treasury or his delegate pur-
14 suant to subtitle F of such Code,” and by
15 striking “subchapter or”;

16 (iii) in clause (4), by striking “(4) the
17 taxes imposed” and all that follows through
18 “such Code,” and inserting “(2) the taxes im-
19 posed by chapter 2 (other than section 1401(b))
20 of the Internal Revenue Code of 1986 with re-
21 spect to self-employment income (as defined in
22 section 1402 of such Code) reported to the Sec-
23 retary of the Treasury or his delegate on tax re-
24 turns under subtitle F of such Code,” and by

1 striking “subchapter or chapter” and inserting
2 “chapter”; and

3 (iv) in the matter following the clauses
4 amended by this subparagraph, by striking
5 “clauses (3) and (4)” each place it appears and
6 inserting “clauses (1) and (2)”.

7 (B) The amendments made by subparagraph
8 (A) shall apply only with respect to taxes imposed
9 with respect to wages paid on or after January 1,
10 1993, or with respect to self-employment income for
11 taxable years beginning on or after such date.

12 (2)(A)(i) Section 201(g)(1) of such Act (42
13 U.S.C. 401(g)(1)) is amended—

14 (I) in subparagraph (A)(i), by striking
15 “and subchapter E” and all that follows
16 through “1954” and inserting “and chapters 2
17 and 21 of the Internal Revenue Code of 1986”;

18 (II) in subparagraph (A)(ii), by striking
19 “1954” and inserting “1986”;

20 (III) in the matter in subparagraph (A)
21 following clause (ii), by striking “subchapter E”
22 and all that follows through “1954.” and in-
23 serting “chapters 2 and 21 of the Internal Rev-
24 enue Code of 1986.”, and by striking “1954
25 other” and inserting “1986 other”; and

1 (IV) in subparagraph (B), by striking
2 “1954” each place it appears and inserting
3 “1986”.

4 (ii) The amendments made by clause (i) shall
5 apply only with respect to periods beginning on or
6 after the date of the enactment of this Act.

7 (B)(i) Section 201(g)(2) of such Act (42 U.S.C.
8 401(g)(2)) is amended by striking “section 3101(a)”
9 and all that follows through “1950.” and inserting
10 “section 3101(a) of the Internal Revenue Code of
11 1986 which are subject to refund under section
12 6413(c) of such Code with respect to wages (as de-
13 fined in section 3121 of such Code).”, and by strik-
14 ing “wages reported” and all that follows through
15 “1954,” and inserting “wages reported to the Sec-
16 retary of the Treasury or his delegate pursuant to
17 subtitle F of such Code.”.

18 (ii) The amendments made by clause (i) shall
19 apply only with respect to wages paid on or after
20 January 1, 1993.

21 (C) Section 201(g)(4) of such Act (42 U.S.C.
22 401(g)(4)) is amended—

23 (i) by striking “The Board of Trustees
24 shall prescribe before January 1, 1981, the
25 method” and inserting “If at any time or times

1 the Boards of Trustees of such Trust Funds
2 deem such action advisable, they may modify
3 the method prescribed by such Boards”;

4 (ii) by striking “1954” and inserting
5 “1986”; and

6 (iii) by striking the last sentence.

7 (3) Section 202(v) of such Act (42 U.S.C.
8 402(v)) is amended—

9 (A) in paragraph (1), by striking “1954”
10 and inserting “1986”; and

11 (B) in paragraph (3)(A), by inserting “of
12 the Internal Revenue Code of 1986” after
13 “3127”.

14 (4) Section 205(c)(5)(F)(i) of such Act (42
15 U.S.C. 405(c)(5)(F)(i)) is amended by inserting “or
16 the Internal Revenue Code of 1986” after “1954”.

17 (5)(A) Section 208(a)(1) of such Act (42
18 U.S.C. 408(a)(1)) is amended—

19 (i) in the matter preceding subparagraph
20 (A), by striking “subchapter E” and all that
21 follows through “1954” and inserting “chapter
22 2 or 21 or subtitle F of the Internal Revenue
23 Code of 1986”;

24 (ii) in subparagraph (A), by inserting “of
25 1986” after “Internal Revenue Code”; and

1 (iii) in subparagraph (B), by inserting “of
2 1986” after “Internal Revenue Code”.

3 (B) The amendments made by subparagraph
4 (A) shall apply only with respect to violations occur-
5 ring on or after the date of the enactment of this
6 Act.

7 (6)(A) Section 209(a)(4)(A) of such Act (42
8 U.S.C. 409(a)(4)(A)) is amended by inserting “or
9 the Internal Revenue Code of 1986” after “Internal
10 Revenue Code of 1954”.

11 (B) Section 209(a) of such Act (42 U.S.C.
12 409(a)) is amended—

13 (i) in subparagraphs (C) and (E) of para-
14 graph (4),

15 (ii) in paragraph (5)(A),

16 (iii) in subparagraphs (A) and (B) of para-
17 graph (14),

18 (iv) in paragraph (15),

19 (v) in paragraph (16), and

20 (vi) in paragraph (17),

21 by striking “1954” each place it appears and insert-
22 ing “1986”.

23 (C) Subsections (b), (f), (g), (i)(1), and (j) of
24 section 209 of such Act (42 U.S.C. 409) are amend-

1 ed by striking “1954” each place it appears and
2 inserting “1986”.

3 (7) Section 211(a)(15) of such Act (42 U.S.C.
4 411(a)(15)) is amended by inserting “of the Internal
5 Revenue Code of 1986” after “section 162(m)”.

6 (8) Title II of such Act is further amended—

7 (A) in subsections (f)(5)(B)(ii) and (k) of
8 section 203 (42 U.S.C. 403),

9 (B) in section 205(c)(1)(D)(i) (42 U.S.C.
10 405(c)(1)(D)(i)),

11 (C) in the matter in section 210(a) (42
12 U.S.C. 410(a)) preceding paragraph (1) and in
13 paragraphs (8), (9), and (10) of section 210(a),

14 (D) in subsections (p)(4) and (q) of section
15 210 (42 U.S.C. 410),

16 (E) in the matter in section 211(a) (42
17 U.S.C. 411(a)) preceding paragraph (1) and in
18 paragraphs (3), (4), (6), (10), (11), and (12)
19 and clauses (iii) and (iv) of section 211(a),

20 (F) in the matter in section 211(c) (42
21 U.S.C. 411(c)) preceding paragraph (1), in
22 paragraphs (3) and (6) of section 211(c), and
23 in the matter following paragraph (6) of section
24 211(c),

1 (G) in subsections (d), (e), and (h)(1)(B)
2 of section 211 (42 U.S.C. 411),

3 (H) in section 216(j) (42 U.S.C. 416(j)),

4 (I) in section 218(e)(3) (42 U.S.C.
5 418(e)(3)),

6 (J) in section 229(b) (42 U.S.C. 429(b)),

7 (K) in section 230(c) (42 U.S.C. 430(c)),

8 and

9 (L) in section 232 (42 U.S.C. 432),

10 by striking “1954” each place it appears and insert-
11 ing “1986”.

12 (d) RULES OF CONSTRUCTION.—

13 (1) The preceding provisions of this section
14 shall be construed only as technical and clerical cor-
15 rections and as reflecting the original intent of the
16 provisions amended thereby.

17 (2) Any reference in title II of the Social Secu-
18 rity Act to the Internal Revenue Code of 1986 shall
19 be construed to include a reference to the Internal
20 Revenue Code of 1954 to the extent necessary to
21 carry out the provisions of paragraph (1).

22 (e) UTILIZATION OF NATIONAL AVERAGE WAGE
23 INDEX FOR WAGE-BASED ADJUSTMENTS.—

1 (1) DEFINITION OF NATIONAL AVERAGE WAGE
2 INDEX.—Section 209(k) of the Social Security Act
3 (42 U.S.C. 409(k)) is amended—

4 (A) by redesignating paragraph (2) as
5 paragraph (3);

6 (B) in paragraph (3) (as redesignated), by
7 striking “paragraph (1)” and inserting “this
8 subsection”; and

9 (C) by striking paragraph (1) and insert-
10 ing the following new paragraphs:

11 “(k)(1) For purposes of sections 203(f)(8)(B)(ii),
12 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii),
13 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E),
14 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and
15 230(b)(2) as in effect immediately prior to the enactment
16 of the Social Security Amendments of 1977), the term ‘na-
17 tional average wage index’ for any particular calendar year
18 means, subject to regulations of the Secretary under para-
19 graph (2), the average of the total wages for such particu-
20 lar calendar year.

21 “(2) The Secretary shall prescribe regulations under
22 which the national average wage index for any calendar
23 year shall be computed—

1 “(A) on the basis of amounts reported to the
2 Secretary of the Treasury or his delegate for such
3 year,

4 “(B) by disregarding the limitation on wages
5 specified in subsection (a)(1),

6 “(C) with respect to calendar years after 1990,
7 by incorporating deferred compensation amounts
8 and factoring in for such years the rate of change
9 from year to year in such amounts, in a manner
10 consistent with the requirements of section 10208 of
11 the Omnibus Budget Reconciliation Act of 1989,
12 and

13 “(D) with respect to calendar years before
14 1978, in a manner consistent with the manner in
15 which the average of the total wages for each of
16 such calendar years was determined as provided by
17 applicable law as in effect for such years.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 203(f)(8)(B)(ii) of such Act
20 (42 U.S.C. 403(f)(8)(B)(ii)) is amended by
21 striking “deemed average total wages” each
22 place it appears and inserting “national average
23 wage index”.

24 (B) Section 213(d)(2)(B) of such Act (42
25 U.S.C. 413(d)(2)(B)) is amended by striking

1 “deemed average total wages” and inserting
2 “national average wage index”, and by striking
3 “the average of the total wages” and all that
4 follows and inserting “the national average
5 wage index (as so defined) for 1976,”.

6 (C) Section 215(a)(1)(B)(ii) of such Act
7 (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

8 (i) in subclause (I), by striking
9 “deemed average total wages” and insert-
10 ing “national average wage index”; and

11 (ii) in subclause (II), by striking “the
12 average of the total wages” and all that
13 follows and inserting “the national average
14 wage index (as so defined) for 1977.”.

15 (D) Section 215(a)(1)(C)(ii) of such Act
16 (42 U.S.C. 415(a)(1)(C)(ii)) is amended by
17 striking “deemed average total wages” and
18 inserting “national average wage index”.

19 (E) Section 215(a)(1)(D) of such Act (42
20 U.S.C. 415(a)(1)(D)) is amended—

21 (i) by striking “after 1978”;

22 (ii) by striking “and the average of
23 the total wages (as described in subpara-
24 graph (B)(ii)(I))” and inserting “and the

1 national average wage index (as defined in
2 section 209(k)(1))”; and

3 (iii) by striking the last sentence.

4 (F) Section 215(b)(3)(A)(ii) of such Act
5 (42 U.S.C. 415(b)(3)(A)(ii)) is amended by
6 striking “deemed average total wages” each
7 place it appears and inserting “national average
8 wage index”.

9 (G) Section 215(i)(1) of such Act (42
10 U.S.C. 415(i)(1)) is amended—

11 (i) in subparagraph (E), by striking
12 “SSA average wage index” and inserting
13 “national average wage index (as defined
14 in section 209(k)(1))”; and

15 (ii) by striking subparagraph (G) and
16 redesignating subparagraph (H) as sub-
17 paragraph (G).

18 (H) Section 215(i)(2)(C)(ii) of such Act
19 (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read
20 as follows:

21 “(ii) The Secretary shall determine and promulgate
22 the OASDI fund ratio for the current calendar year on
23 or before November 1 of the current calendar year, based
24 upon the most recent data then available. The Secretary
25 shall include a statement of the fund ratio and the na-

1 tional average wage index (as defined in section 209(k)(1))
2 and a statement of the effect such ratio and the level of
3 such index may have upon benefit increases under this
4 subsection in any notification made under clause (i) and
5 any determination published under subparagraph (D).”.

6 (I) Section 224(f)(2) of such Act (42
7 U.S.C. 424a(f)(2)) is amended—

8 (i) in subparagraph (A), by adding
9 “and” at the end;

10 (ii) by striking subparagraph (C); and

11 (iii) by striking subparagraph (B) and
12 inserting the following:

13 “(B) the ratio of (i) the national average wage
14 index (as defined in section 209(k)(1)) for the cal-
15 endar year before the year in which such redeter-
16 mination is made to (ii) the national average wage
17 index (as so defined) for the calendar year before
18 the year in which the reduction was first computed
19 (but not counting any reduction made in benefits for
20 a previous period of disability).”.

21 (J) Section 230(b)(2) of such Act (42
22 U.S.C. 430(b)(2)) is amended by striking
23 “deemed average total wages” each place it ap-
24 pears and inserting “national average wage
25 index”.

1 (K) Section 230(d) of such Act (42 U.S.C.
2 430(d)) is amended by striking “deemed aver-
3 age total wage” and inserting “national average
4 wage index”.

5 **SEC. 13018. CROSS-MATCHING OF SOCIAL SECURITY AC-**
6 **COUNT NUMBER INFORMATION AND EM-**
7 **PLOYER IDENTIFICATION NUMBER INFORMA-**
8 **TION MAINTAINED BY THE DEPARTMENT OF**
9 **AGRICULTURE.**

10 (a) SOCIAL SECURITY ACCOUNT NUMBER INFORMA-
11 TION.—Clause (iii) of section 205(c)(2)(C) of the Social
12 Security Act (42 U.S.C. 405(c)(2)(C)) (as added by sec-
13 tion 1735(a)(3) of the Food, Agriculture, Conservation,
14 and Trade Act of 1990 (Public Law 101–624; 104 Stat.
15 3791)) is amended—

16 (1) by inserting “(I)” after “(iii)”; and

17 (2) by striking “The Secretary of Agriculture
18 shall restrict” and all that follows and inserting the
19 following:

20 “(II) The Secretary of Agriculture may share any in-
21 formation contained in any list referred to in subclause
22 (I) with any other agency or instrumentality of the United
23 States which otherwise has access to social security ac-
24 count numbers in accordance with this subsection or other
25 applicable Federal law, except that the Secretary of Agri-

1 culture may share such information only to the extent that
2 such Secretary determines such sharing would assist in
3 verifying and matching such information against informa-
4 tion maintained by such other agency or instrumentality.
5 Any such information shared pursuant to this subclause
6 may be used by such other agency or instrumentality only
7 for the purpose of effective administration and enforce-
8 ment of the Food Stamp Act of 1977 or for the purpose
9 of investigation of violations of other Federal laws or en-
10 forcement of such laws.

11 “(III) The Secretary of Agriculture, and the head of
12 any other agency or instrumentality referred to in this
13 subclause, shall restrict, to the satisfaction of the Sec-
14 retary of Health and Human Services, access to social se-
15 curity account numbers obtained pursuant to this clause
16 only to officers and employees of the United States whose
17 duties or responsibilities require access for the purposes
18 described in subclause (II).

19 “(IV) The Secretary of Agriculture, and the head of
20 any agency or instrumentality with which information is
21 shared pursuant to clause (II), shall provide such other
22 safeguards as the Secretary of Health and Human Serv-
23 ices determines to be necessary or appropriate to protect
24 the confidentiality of the social security account num-
25 bers.”.

1 (b) EMPLOYER IDENTIFICATION NUMBER INFORMA-
2 TION.—Subsection (f) of section 6109 of the Internal Rev-
3 enue Code of 1986 (as added by section 1735(c) of the
4 Food, Agriculture, Conservation, and Trade Act of 1990
5 (Public Law 101-624; 104 Stat. 3792)) (relating to access
6 to employer identification numbers by Secretary of Agri-
7 culture for purposes of Food Stamp Act of 1977) is
8 amended—

9 (1) by striking paragraph (2) and inserting the
10 following:

11 “(2) SHARING OF INFORMATION AND SAFE-
12 GUARDS.—

13 “(A) SHARING OF INFORMATION.—The
14 Secretary of Agriculture may share any infor-
15 mation contained in any list referred to in para-
16 graph (1) with any other agency or instrumen-
17 tality of the United States which otherwise has
18 access to employer identification numbers in ac-
19 cordance with this section or other applicable
20 Federal law, except that the Secretary of Agri-
21 culture may share such information only to the
22 extent that such Secretary determines such
23 sharing would assist in verifying and matching
24 such information against information main-
25 tained by such other agency or instrumentality.

1 Any such information shared pursuant to this
2 subparagraph may be used by such other agen-
3 cy or instrumentality only for the purpose of ef-
4 fective administration and enforcement of the
5 Food Stamp Act of 1977 or for the purpose of
6 investigation of violations of other Federal laws
7 or enforcement of such laws.

8 “(B) SAFEGUARDS.—The Secretary of Ag-
9 riculture, and the head of any other agency or
10 instrumentality referred to in subparagraph
11 (A), shall restrict, to the satisfaction of the Sec-
12 retary of the Treasury, access to employer iden-
13 tification numbers obtained pursuant to this
14 subsection only to officers and employees of the
15 United States whose duties or responsibilities
16 require access for the purposes described in
17 subparagraph (A). The Secretary of Agri-
18 culture, and the head of any agency or instru-
19 mentality with which information is shared pur-
20 suant to subparagraph (A), shall provide such
21 other safeguards as the Secretary of the Treas-
22 ury determines to be necessary or appropriate
23 to protect the confidentiality of the employer
24 identification numbers.”;

1 (2) in paragraph (3), by striking “by the Sec-
2 retary of Agriculture pursuant to this subsection”
3 and inserting “pursuant to this subsection by the
4 Secretary of Agriculture or the head of any agency
5 or instrumentality with which information is shared
6 pursuant to paragraph (2)”, and by striking “social
7 security account numbers” and inserting “employer
8 identification numbers”; and

9 (3) in paragraph (4), by striking “by the Sec-
10 retary of Agriculture pursuant to this subsection”
11 and inserting “pursuant to this subsection by the
12 Secretary of Agriculture or any agency or instru-
13 mentality with which information is shared pursuant
14 to paragraph (2)”.

15 **SEC. 13019. PROHIBITION OF MISUSE OF DEPARTMENT OF**
16 **THE TREASURY NAMES, SYMBOLS, ETC.**

17 (a) GENERAL RULE.—Subchapter II of chapter 3 of
18 title 31, United States Code, is amended by adding at the
19 end thereof the following new section:

20 **“§ 333. Prohibition of misuse of Department of the**
21 **Treasury names, symbols, etc.**

22 “(a) GENERAL RULE.—No person may use, in con-
23 nection with, or as a part of, any advertisement, sollicita-
24 tion, business activity, or product, whether alone or with
25 other words, letters, symbols, or emblems—

1 “(1) the words ‘Department of the Treasury’,
2 or the name of any service, bureau, office, or other
3 subdivision of the Department of the Treasury,

4 “(2) the titles ‘Secretary of the Treasury’ or
5 ‘Treasurer of the United States’ or the title of any
6 other officer or employee of the Department of the
7 Treasury,

8 “(3) the abbreviations or initials of any entity
9 referred to in paragraph (1),

10 “(4) the words ‘United States Savings Bond’ or
11 the name of any other obligation issued by the De-
12 partment of the Treasury,

13 “(5) any symbol or emblem of an entity re-
14 ferred to in paragraph (1) (including the design of
15 any envelope or stationary used by such an entity),
16 and

17 “(6) any colorable imitation of any such words,
18 titles, abbreviations, initials, symbols, or emblems,
19 in a manner which could reasonably be interpreted or con-
20 strued as conveying the false impression that such adver-
21 tisement, solicitation, business activity, or product is in
22 any manner approved, endorsed, sponsored, or authorized
23 by, or associated with, the Department of the Treasury
24 or any entity referred to in paragraph (1) or any officer
25 or employee thereof.

1 “(b) TREATMENT OF DISCLAIMERS.—Any deter-
2 mination of whether a person has violated the provisions
3 of subsection (a) shall be made without regard to any use
4 of a disclaimer of affiliation with the United States Gov-
5 ernment or any particular agency or instrumentality there-
6 of.

7 “(c) CIVIL PENALTY.—

8 “(1) IN GENERAL.—The Secretary of the
9 Treasury may impose a civil penalty on any person
10 who violates the provisions of subsection (a).

11 “(2) AMOUNT OF PENALTY.—The amount of
12 the civil penalty imposed by paragraph (1) shall not
13 exceed \$5,000 for each use of any material in viola-
14 tion of subsection (a). If such use is in a broadcast
15 or telecast, the preceding sentence shall be applied
16 by substituting ‘\$25,000’ for ‘\$5,000’.

17 “(3) TIME LIMITATIONS.—

18 “(A) ASSESSMENTS.—The Secretary of the
19 Treasury may assess any civil penalty under
20 paragraph (1) at any time before the end of the
21 3-year period beginning on the date of the vio-
22 lation with respect to which such penalty is im-
23 posed.

24 “(B) CIVIL ACTION.—The Secretary of the
25 Treasury may commence a civil action to re-

1 cover any penalty imposed under this subsection
2 at any time before the end of the 2-year period
3 beginning on the date on which such penalty
4 was assessed.

5 “(4) COORDINATION WITH SUBSECTION (d).—
6 No penalty may be assessed under this subsection
7 with respect to any violation after a criminal pro-
8 ceeding with respect to such violation has been com-
9 menced under subsection (d).

10 “(d) CRIMINAL PENALTY.—

11 “(1) IN GENERAL.—If any person knowingly
12 violates subsection (a), such person shall, upon con-
13 viction thereof, be fined not more than \$10,000 for
14 each such use or imprisoned not more than 1 year,
15 or both. If such use is in a broadcast or telecast, the
16 preceding sentence shall be applied by substituting
17 ‘\$50,000’ for ‘\$10,000’.

18 “(2) TIME LIMITATIONS.—No person may be
19 prosecuted, tried, or punished under paragraph (1)
20 for any violation of subsection (a) unless the indict-
21 ment is found or the information instituted during
22 the 3-year period beginning on the date of the viola-
23 tion.

24 “(3) COORDINATION WITH SUBSECTION (c).—
25 No criminal proceeding may be commenced under

1 this subsection with respect to any violation if a civil
2 penalty has previously been assessed under sub-
3 section (c) with respect to such violation.”

4 (b) CLERICAL AMENDMENT.—The analysis for chap-
5 ter 3 of title 31, United States Code, is amended by add-
6 ing after the item relating to section 332 the following
7 new item:

 “333. Prohibition of misuse of Department of the Treasury names, symbols,
 etc.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 (d) REPORT.—Not later than May 1, 1995, the Sec-
12 retary of the Treasury shall submit a report to the Com-
13 mittee on Ways and Means of the House of Representa-
14 tives and the Committee on Finance of the Senate on the
15 implementation of the amendments made by this section.
16 Such report shall include the number of cases in which
17 the Secretary has notified persons of violations of section
18 333 of title 31, United States Code (as added by sub-
19 section (a)), the number of prosecutions commenced under
20 such section, and the total amount of the penalties col-
21 lected in such prosecutions.

1 **SEC. 13020. AVAILABILITY AND USE OF DEATH INFORMA-**
2 **TION UNDER THE OLD-AGE, SURVIVORS, AND**
3 **DISABILITY INSURANCE PROGRAM.**

4 (a) IMPROVEMENTS IN PROGRAM FOR USE OF
5 DEATH CERTIFICATES TO CORRECT PROGRAM INFORMA-
6 TION.—

7 (1) ELIMINATION OF STATE RESTRICTIONS ON
8 USE OF INFORMATION.—Section 205(r)(1) of the So-
9 cial Security Act (42 U.S.C. 405(r)(1)) is amended
10 by adding at the end, after and below subparagraph
11 (B), the following new sentence:

12 “Any contract entered into pursuant to subparagraph (A)
13 shall not include any restriction on the use of information
14 obtained by the Secretary pursuant to such contract, ex-
15 cept to the extent that such use may be restricted under
16 paragraph (6).”.

17 (2) INFORMATION PROVIDED TO STATE AGEN-
18 CIES FREE OF CHARGE.—

19 (A) IN GENERAL.—Section 205(r)(4) of
20 such Act (42 U.S.C. 405(r)(4)) is amended to
21 read as follows:

22 “(4)(A) In the case of individuals with respect to
23 whom federally funded benefits are provided by (or
24 through) a State agency other than under this Act, the
25 Secretary shall to the extent feasible provide such informa-
26 tion free of charge through a cooperative arrangement

1 with such agency, for ensuring proper payment of those
2 benefits with respect to such individuals, if such arrange-
3 ment does not conflict with the duties of the Secretary
4 under paragraph (1).

5 “(B) The Secretary may enter into similar agree-
6 ments with States to provide information free of charge
7 for their use in programs wholly funded by the States if
8 such arrangement does not conflict with the duties of the
9 Secretary under paragraph (1).”.

10 (B) CONFORMING AMENDMENT.—Section
11 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is
12 amended by striking “or State”.

13 (3) USE BY STATES OF SOCIAL SECURITY AC-
14 COUNT NUMBERS CONTINGENT UPON PARTICIPATION
15 IN PROGRAM.—Section 205(r)(2) of such Act (42
16 U.S.C. 405(r)(2)) is amended—

17 (A) by inserting “(A)” after “(2)”; and

18 (B) by adding at the end the following new
19 subparagraph:

20 “(B) Notwithstanding section 7(a)(2)(B) of the Pri-
21 vacy Act of 1974 and clauses (i) and (v) of subsection
22 (c)(2)(C) of this section, any State which is not a party
23 to a contract with the Secretary meeting the requirements
24 of paragraph (1) (and any political subdivision thereof)
25 may not utilize an individual’s social security account

1 number in the administration of any driver's license or
2 motor vehicle registration law.”.

3 (b) STUDY REGARDING IMPROVEMENTS IN GATHER-
4 ING AND REPORTING OF DEATH INFORMATION.

5 (1) IN GENERAL.—As soon as practicable after
6 the date of the enactment of this Act, the Secretary
7 of Health and Human Services shall conduct a study
8 of possible improvements in the current methods of
9 gathering and reporting death information by the
10 Federal, State, and local governments which would
11 result in more efficient and expeditious handling of
12 such information.

13 (2) SPECIFIC MATTERS TO BE STUDIED.—In
14 carrying out the study required under this sub-
15 section, the Secretary shall—

16 (A) ascertain the delays in the receipt of
17 death information which are currently encoun-
18 tered by the Social Security Administration and
19 other agencies in need of such information on
20 a regular basis,

21 (B) analyze the causes of such delays,

22 (C) develop alternative options for improv-
23 ing Federal, State, and local agency cooperation
24 in reducing such delays, and

1 (D) evaluate the costs and benefits associ-
2 ated with the options referred to in subpara-
3 graph (C).

4 (3) REPORT.—Not later than June 1, 1994, the
5 Secretary shall submit a written report to the Com-
6 mittee on Ways and Means of the House of Rep-
7 resentatives and the Committee on Finance of the
8 Senate setting forth the results of the study con-
9 ducted pursuant to this subsection, together with
10 such administrative and legislative recommendations
11 as the Secretary may consider appropriate.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 subsection (a) shall take effect 1 year after the date
15 of the enactment of this Act.

16 (2) PROMOTION OF ENTRY INTO NEW CON-
17 TRACTS.—As soon as practicable after the date of
18 the enactment of this Act, the Secretary of Health
19 and Human Services shall take such actions as are
20 necessary and appropriate to promote entry into
21 contracts under section 205(r) of the Social Security
22 Act which are in compliance with the requirements
23 of the amendments made by subsection (a).

1 **Subtitle B—Human Resources**
 2 **Amendments**

3 **SEC. 13201. TABLE OF CONTENTS.**

4 The table of contents of this subtitle is as follows:

Subtitle B—Human Resources Amendments

- Sec. 13201. Table of contents.
- Sec. 13202. References.

CHAPTER 1—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

- Sec. 13211. Entitlement funding for services designed to strengthen and preserve families.
- Sec. 13212. Grants for State courts to assess and improve handling of proceedings relating to foster care and adoption.
- Sec. 13213. Required protections for foster children.
- Sec. 13214. States required to report on measures taken to comply with the Indian Child Welfare Act.
- Sec. 13215. Child welfare traineeships.
- Sec. 13216. Dissolved adoptions.
- Sec. 13217. Time frame for judicial determinations on voluntary placements.
- Sec. 13218. Study of reasonable efforts.
- Sec. 13219. Enhanced match for automated data systems.
- Sec. 13220. Periodic reevaluation of foster care maintenance payments.
- Sec. 13221. Dispositional hearing.
- Sec. 13222. Health care plans for foster children.
- Sec. 13223. Independent living.
- Sec. 13224. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.
- Sec. 13225. Training of agency staff and foster and adoptive parents.
- Sec. 13226. On-site reviews and audits of State claims for foster care and adoption assistance.
- Sec. 13227. Conformity reviews.
- Sec. 13228. Repeal of annual report on voluntary placement.
- Sec. 13229. Demonstration projects.
- Sec. 13230. Placement accountability.
- Sec. 13231. Payments of State claims for foster care and adoption assistance.
- Sec. 13232. Moratorium on collection of disallowances.
- Sec. 13233. Border region child welfare worker training demonstration.
- Sec. 13234. Effect of failure to carry out State plan.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

- Sec. 13241. State paternity establishment programs.
- Sec. 13242. Enforcement of health insurance support.
- Sec. 13243. Reports to credit bureaus on persons delinquent in child support payments.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

- Sec. 13251. Fees for Federal administration of State supplementary payments.

- Sec. 13252. Exclusion from income of State relocation assistance.
- Sec. 13253. Prevention of adverse effects on eligibility for, and amount of, benefits when spouse or parent of beneficiary is absent from the household due to active military service.
- Sec. 13254. Eligibility for children of Armed Forces personnel residing outside the United States other than in foreign countries.
- Sec. 13255. Definition of disability for children under age 18 applied to all individuals under age 18.
- Sec. 13256. Valuation of certain in-kind support and maintenance when there is a cost of living adjustment in benefits.
- Sec. 13257. Exclusion from income of certain amounts received by Indians from interests held in trust.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

- Sec. 13261. 50 percent Federal match of State administrative costs.
- Sec. 13262. Delay in effective date of penalty for failure to meet required participation rate for unemployed parents in the JOBS program.
- Sec. 13263. Report to the Congress with respect to performance standards in the JOBS program.
- Sec. 13264. Measurement and reporting of welfare participation.
- Sec. 13265. New Hope demonstration project.
- Sec. 13266. Delay in requirement that outlying areas operate an AFDC-UP program.
- Sec. 13267. Adult in family or household allowed to attest to citizenship status of family or household members.
- Sec. 13268. Increase in stepparent income disregard.
- Sec. 13269. Extension of New York State child support demonstration program.
- Sec. 13270. Early childhood development projects.

CHAPTER 5—UNEMPLOYMENT INSURANCE

- Sec. 13271. Treatment of short-time compensation programs.
- Sec. 13272. Technical amendment to Unemployment Trust Fund.
- Sec. 13273. Extension of reporting date for advisory council.
- Sec. 13274. Clarification of emergency unemployment benefits provisions.
- Sec. 13275. Modifications to extended unemployment program.
- Sec. 13276. Extension of current Federal unemployment rate.
- Sec. 13277. Disclosure of information to Railroad Retirement Board.

CHAPTER 6—TECHNICAL PROVISIONS

- Sec. 13281. Corrections related to the income security and human resources provisions of the Omnibus Budget Reconciliation Act of 1990.
- Sec. 13282. Technical corrections related to the human resource and income security provisions of the Omnibus Budget Reconciliation Act of 1989.
- Sec. 13283. Elimination of obsolete provisions relating to treatment of the earned income tax credit.
- Sec. 13284. Redesignation of certain provisions.

1 **SEC. 13202. REFERENCES.**

2 Except as otherwise expressly provided, wherever in
3 this subtitle an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to a
6 section or other provision of the Social Security Act.

7 **CHAPTER 1—CHILD WELFARE SERVICES,**
8 **FOSTER CARE, AND ADOPTION ASSIST-**
9 **ANCE**

10 **SEC. 13211. ENTITLEMENT FUNDING FOR SERVICES DE-**
11 **SIGNED TO STRENGTHEN AND PRESERVE**
12 **FAMILIES.**

13 (a) IN GENERAL.—Part B of title IV (42 U.S.C.
14 620–628) is amended—

15 (1) by striking the heading and inserting the
16 following:

17 **“PART B—CHILD AND FAMILY SERVICES**

18 **“Subpart 1—Child Welfare Services”;** and

19 (2) by adding at the end the following:

20 **“Subpart 2—Family Preservation and Support**
21 **Services**

22 **“SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS**
23 **OF APPROPRIATIONS; RESERVATION OF CER-**
24 **TAIN AMOUNTS.**

25 **“(a) PURPOSES; LIMITATIONS ON AUTHORIZATION**
26 **OF APPROPRIATIONS.—For the purpose of encouraging**

1 and enabling each State to develop and establish, or ex-
2 pand, and to operate a program of family preservation
3 services and community-based family support services,
4 there are authorized to be appropriated to the Secretary—

5 “(1) \$60,000,000 for fiscal year 1994;

6 “(2) \$135,000,000 for fiscal year 1995;

7 “(3) \$240,000,000 for fiscal year 1996;

8 “(4) \$360,000,000 for fiscal year 1997; and

9 “(5) \$600,000,000 for fiscal year 1998.

10 “(b) RESERVATION OF CERTAIN AMOUNTS.—

11 “(1) EVALUATION, RESEARCH, TRAINING, AND
12 TECHNICAL ASSISTANCE.—The Secretary shall re-
13 serve 1 percent of the amount appropriated pursu-
14 ant to subsection (a) for each fiscal year, for expend-
15 iture by the Secretary for evaluation, research, train-
16 ing, and technical assistance related to the program
17 under this subpart.

18 “(2) STATE COURT ASSESSMENTS.—The Sec-
19 retary shall reserve \$5,000,000 of the amount ap-
20 propriated pursuant to subsection (a) for fiscal year
21 1995, and \$10,000,000 of the amount so appro-
22 priated for each of fiscal years 1996, 1997, and
23 1998, for grants under section 13212 of the Omni-
24 bus Budget Reconciliation Act of 1993.

1 “(3) INDIAN TRIBES.—The Secretary shall re-
2 serve 1 percent of the amount appropriated pursu-
3 ant to subsection (a) for each fiscal year, for allot-
4 ment to Indian tribes in accordance with section
5 433(a).

6 **“SEC. 431. DEFINITIONS.**

7 “(a) IN GENERAL.—As used in this subpart:

8 “(1) FAMILY PRESERVATION SERVICES.—The
9 term ‘family preservation services’ means services
10 for children and families designed to help families
11 (including adoptive and extended families) at risk or
12 in crisis, including—

13 “(A) service programs designed to help
14 children—

15 “(i) where appropriate, return to fam-
16 ilies from which they have been removed;
17 or

18 “(ii) be placed for adoption, with a
19 legal guardian, or, if adoption or legal
20 guardianship is determined not to be ap-
21 propriate for a child, in some other
22 planned, permanent living arrangement;

23 “(B) preplacement preventive services pro-
24 grams, such as intensive family preservation
25 programs, designed to help children at risk of

1 foster care placement remain with their fami-
2 lies;

3 “(C) service programs designed to provide
4 followup care to families to whom a child has
5 been returned after a foster care placement;

6 “(D) respite care of children to provide
7 temporary relief for parents and other
8 caregivers (including foster parents); and

9 “(E) services designed to improve
10 parenting skills (by reinforcing parents’ con-
11 fidence in their strengths, and helping them to
12 identify where improvement is needed and to
13 obtain assistance in improving those skills) with
14 respect to matters such as child development,
15 family budgeting, coping with stress, health,
16 and nutrition.

17 “(2) FAMILY SUPPORT SERVICES.—The term
18 ‘family support services’ means community-based
19 services to promote the well-being of children and
20 families designed to increase the strength and stabil-
21 ity of families (including adoptive, foster, and ex-
22 tended families), to increase parents’ confidence and
23 competence in their parenting abilities, to afford
24 children a stable and supportive family environment,

1 and otherwise to enhance child development, includ-
2 ing—

3 “(A) services described in paragraph
4 (1)(E);

5 “(B) respite care of children to provide
6 temporary relief for parents and other
7 caregivers;

8 “(C) structured activities involving parents
9 and children to strengthen the parent-child re-
10 lationship;

11 “(D) drop-in centers to afford families op-
12 portunities for informal interaction with other
13 families and with program staff;

14 “(E) information and referral services to
15 afford families access to other community serv-
16 ices, including child care, health care, nutrition
17 programs, adult education and literacy pro-
18 grams, and counseling and mentoring services;
19 and

20 “(F) early developmental screening of chil-
21 dren to assess the needs of such children, and
22 assistance to families in securing specific serv-
23 ices to meet these needs.

1 “(3) STATE AGENCY.—The term ‘State agency’
2 means the State agency responsible for administer-
3 ing the program under subpart 1.

4 “(4) STATE.—The term ‘State’ includes an In-
5 dian tribe or tribal organization, in addition to the
6 meaning given such term for purposes of subpart 1.

7 “(5) TRIBAL ORGANIZATION.—The term ‘tribal
8 organization’ means the recognized governing body
9 of any Indian tribe.

10 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
11 means any Indian tribe (as defined in section
12 482(i)(5)) and any Alaska Native organization (as
13 defined in section 482(i)(7)(A)).

14 “(b) OTHER TERMS.—For other definitions of other
15 terms used in this subpart, see section 475.

16 **“SEC. 432. STATE PLANS.**

17 “(a) PLAN REQUIREMENTS.—A State plan meets the
18 requirements of this subsection if the plan—

19 “(1) provides that the State agency shall ad-
20 minister, or supervise the administration of, the
21 State program under this subpart;

22 “(2)(A)(i) sets forth the goals intended to be
23 accomplished under the plan by the end of the 5th
24 fiscal year in which the plan is in operation in the
25 State, and (ii) is updated periodically to set forth

1 the goals intended to be accomplished under the
2 plan by the end of each 5th fiscal year thereafter;

3 “(B) describes the methods to be used in meas-
4 uring progress toward accomplishment of the goals;

5 “(C) contains a commitment that the State—

6 “(i) after the end of each of the 1st 4 fis-
7 cal years covered by a set of goals, will perform
8 an interim review of progress toward accom-
9 plishment of the goals, and on the basis of the
10 interim review will revise the statement of goals
11 in the plan, if necessary, to reflect changed cir-
12 cumstances; and

13 “(ii) after the end of the last fiscal year
14 covered by a set of goals, will perform a final
15 review of progress toward accomplishment of
16 the goals, and on the basis of the final review
17 (I) will prepare, transmit to the Secretary, and
18 make available to the public a final report on
19 progress toward accomplishment of the goals,
20 and (II) will develop (in consultation with the
21 entities required to be consulted pursuant to
22 subsection (b)) and add to the plan a statement
23 of the goals intended to be accomplished by the
24 end of the 5th succeeding fiscal year;

1 “(3) provides for coordination, to the extent
2 feasible and appropriate, of the provision of services
3 under the plan and the provision of services or bene-
4 fits under other Federal or federally assisted pro-
5 grams serving the same populations;

6 “(4) contains assurances that not less than 90
7 percent of expenditures under the plan for any fiscal
8 year with respect to which the State is eligible for
9 payment under section 433 for the fiscal year shall
10 be for services for children and families, and that
11 significant portions of such 90 percent shall be ex-
12 pended—

13 “(A) for family preservation services; and

14 “(B) for community-based family support
15 services;

16 “(5) provides that, by the beginning of the 6th
17 fiscal year during which the plan is in effect, pro-
18 grams under the plan shall be available on a state-
19 wide basis, to the extent feasible and appropriate;

20 “(6) contains assurances that the State will—

21 “(A) annually prepare, furnish to the Sec-
22 retary, and make available to the public a de-
23 scription (including separate descriptions with
24 respect to family preservation services and com-
25 munity-based family support services) of—

1 “(i) the service programs to be made
2 available under the plan in the immediately
3 succeeding fiscal year;

4 “(ii) the populations which the pro-
5 grams will serve; and

6 “(iii) the geographic areas in the
7 State in which the services will be avail-
8 able; and

9 “(B) perform the activities described in
10 subparagraph (A)—

11 “(i) in the case of the 1st fiscal year
12 under the plan, at the time the State sub-
13 mits its initial plan; and

14 “(ii) in the case of each succeeding
15 fiscal year, by the end of the 3rd quarter
16 of the immediately preceding fiscal year;

17 “(7) provides for such methods of administra-
18 tion as the Secretary finds to be necessary for the
19 proper and efficient operation of the plan;

20 “(8)(A) contains assurances that Federal funds
21 provided to the State under this subpart will not be
22 used to supplant Federal or non-Federal funds for
23 existing services and activities which promote the
24 purposes of this subpart; and

1 “(B) provides that the State will furnish re-
2 ports to the Secretary, at such times, in such for-
3 mat, and containing such information as the Sec-
4 retary may require, that demonstrate the State’s
5 compliance with the prohibition contained in sub-
6 paragraph (A); and

7 “(9) provides that the State agency will furnish
8 such reports, containing such information, and par-
9 ticipate in such evaluations, as the Secretary may
10 require.

11 “(b) APPROVAL OF PLANS.—

12 “(1) IN GENERAL.—The Secretary shall ap-
13 prove a plan that meets the requirements of sub-
14 section (a) only if the plan was developed jointly by
15 the Secretary and the State, after consultation by
16 the State agency with appropriate public and non-
17 profit private agencies and community-based organi-
18 zations with experience in administering programs of
19 services for children and families (including family
20 preservation and family support services).

21 “(2) PLANS OF INDIAN TRIBES EXEMPTED
22 FROM INAPPROPRIATE REQUIREMENTS.—The Sec-
23 retary may exempt a plan submitted by an Indian
24 tribe from any requirement of this section that the
25 Secretary determines would be inappropriate to

1 apply to the Indian tribe, taking into account the re-
2 sources, needs, and other circumstances of the
3 Indian tribe.

4 **“SEC. 433. ALLOTMENTS TO STATES.**

5 “(a) INDIAN TRIBES.—

6 “(1) IN GENERAL.—From the amount reserved
7 pursuant to section 430(b)(3), the Secretary shall
8 allot to each Indian tribe with a plan approved
9 under this subpart (except as provided in paragraph
10 (2) of this subsection) an amount that bears the
11 same ratio to such reserved amount as the number
12 of children in the Indian tribe bears to the total
13 number of children in all Indian tribes with State
14 plans so approved, as determined by the Secretary
15 on the basis of the most current and reliable infor-
16 mation available to the Secretary.

17 “(2) SPECIAL RULE.—The Secretary may not
18 allot funds to an Indian tribe with a plan approved
19 under this subpart whose allotment (but for this
20 paragraph) would be less than \$10,000 if allotments
21 were made under paragraph (1) to all Indian tribes
22 with plans approved under this subpart with the
23 same or larger numbers of children.

24 “(b) TERRITORIES.—From the amount appropriated
25 pursuant to section 430 that remains after applying sec-

1 tion 430(b) for each fiscal year, the Secretary shall allot
2 to each of the jurisdictions of Puerto Rico, Guam, the Vir-
3 gin Islands, the Northern Mariana Islands, and American
4 Samoa an amount determined in the same manner as the
5 allotment to each of such jurisdictions is determined under
6 section 421.

7 “(c) OTHER STATES.—

8 “(1) IN GENERAL.—From the amount appro-
9 priated pursuant to section 430 that remains after
10 applying section 430(b) and subsection (b) of this
11 section for each fiscal year, the Secretary shall allot
12 to each State (other than an Indian tribe) which is
13 not specified in subsection (b) of this section an
14 amount equal to such remaining amount multiplied
15 by the food stamp percentage of the State for the
16 fiscal year.

17 “(2) FOOD STAMP PERCENTAGE DEFINED.—

18 “(A) IN GENERAL.—As used in paragraph
19 (1) of this subsection, the term ‘food stamp
20 percentage’ means, with respect to a State and
21 a fiscal year, the average monthly number of
22 children receiving food stamp benefits in the
23 State for months in the 3 fiscal years referred
24 to in subparagraph (B) of this paragraph, as
25 determined from sample surveys made under

1 section 16(c) of the Food Stamp Act of 1977,
2 expressed as a percentage of the average
3 monthly number of children receiving food
4 stamp benefits in the States described in such
5 paragraph (1) for months in such 3 fiscal years,
6 as so determined.

7 “(B) FISCAL YEARS USED IN CALCULA-
8 TION.—For purposes of the calculation pursu-
9 ant to subparagraph (A), the Secretary shall
10 use data for the 3 most recent fiscal years, pre-
11 ceeding the fiscal year for which the State’s al-
12 lotment is calculated under this subsection, for
13 which such data are available to the Secretary.

14 **“SEC. 434. PAYMENTS TO STATES.**

15 “(a) ENTITLEMENT.—

16 “(1) GENERAL RULE.—Except as provided in
17 paragraph (2) of this subsection, each State which
18 has a plan approved under this subpart shall be enti-
19 tled to payment of the lesser of—

20 “(A) 75 percent of the total cost of activi-
21 ties under the plan during the fiscal year or the
22 immediately succeeding fiscal year; or

23 “(B) the allotment of the State under sec-
24 tion 433 for the fiscal year.

1 “(2) SPECIAL RULE.—Upon submission by a
2 State to the Secretary during fiscal year 1994 of an
3 application in such form and containing such infor-
4 mation as the Secretary may require (including, if
5 the State is seeking payment of an amount pursuant
6 to subparagraph (B) of this paragraph, a description
7 of the services to be provided with the amount), the
8 State shall be entitled to payment of an amount
9 equal to the sum of—

10 “(A) such amount not exceeding
11 \$1,000,000 as the State may require to develop
12 and submit a plan for approval under section
13 432; and

14 “(B) an amount equal to the lesser of—

15 “(i) 75 percent of the cost of State
16 services to children and families provided
17 in accordance with section 432(a)(4); or

18 “(ii) the allotment of the State under
19 section 433 for fiscal year 1994, reduced
20 by any amount paid to the State pursuant
21 to subparagraph (A) of this paragraph.

22 “(b) PROHIBITIONS.—

23 “(1) NO USE OF OTHER FEDERAL FUNDS FOR
24 STATE MATCH.—Each State receiving an amount
25 paid under paragraph (1) or (2)(B) of subsection (a)

1 may not expend any Federal funds to meet the costs
2 of services described in this subpart not covered by
3 the amount so paid.

4 “(2) AVAILABILITY OF FUNDS.—

5 “(A) IN GENERAL.—A State may not ex-
6 pend any amount paid under subsection (a)(1)
7 for any fiscal year after the end of the imme-
8 diately succeeding fiscal year.

9 “(B) PLAN DEVELOPMENT.—A State may
10 not expend any amount paid under subsection
11 (a)(2) after the end of fiscal year 1994.

12 “(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS
13 OF INDIAN TRIBES.—The Secretary shall pay any amount
14 to which an Indian tribe is entitled under this section di-
15 rectly to the tribal organization of the Indian tribe.

16 **“SEC. 435. EVALUATIONS; REPORT.**

17 “(a) EVALUATIONS.—

18 “(1) IN GENERAL.—The Secretary shall evalu-
19 ate the effectiveness of the programs carried out
20 pursuant to this subpart in accomplishing the pur-
21 poses of this subpart, in accordance with criteria es-
22 tablished in accordance with paragraph (2).

23 “(2) CRITERIA TO BE USED.—In developing the
24 criteria to be used in evaluations under paragraph

1 (1), the Secretary shall consult with appropriate par-
2 ties, such as—

3 “(A) State agencies administering pro-
4 grams under this part and part E;

5 “(B) persons administering child and fam-
6 ily services programs (including family preser-
7 vation and family support programs) for pri-
8 vate, nonprofit organizations with an interest in
9 child welfare; and

10 “(C) other persons with recognized exper-
11 tise in the evaluation of child and family serv-
12 ices programs (including family preservation
13 and family support programs) or other related
14 programs.

15 “(b) REPORT TO THE CONGRESS.—Not later than
16 December 31, 1997, the Secretary shall submit to the
17 Congress a report containing findings with respect to the
18 evaluations required by subsection (a).

19 “(c) COORDINATION OF EVALUATIONS.—The Sec-
20 retary shall develop procedures to coordinate evaluations
21 under this section, to the extent feasible, with evaluations
22 by the States of the effectiveness of programs under this
23 subpart.”.

24 (b) CONFORMING AMENDMENTS.—

25 (1) Section 422 (42 U.S.C. 622) is amended—

1 (A) in subsection (a), by striking “this
2 part” and inserting “this subpart”;

3 (B) in subsection (b), by striking “this
4 part” each place such term appears and insert-
5 ing “this subpart”; and

6 (C) in subsection (b)(2), by inserting
7 “under the State plan approved under subpart
8 2 of this part,” after “part A of this title,”.

9 (2) Section 423(a) (42 U.S.C. 623(a)) is
10 amended by striking “this part” and inserting “this
11 subpart”.

12 (3) Section 428(a) (42 U.S.C. 628(a)) is
13 amended by striking “this part” each place such
14 term appears and inserting “this subpart”.

15 (4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is
16 amended by inserting “subpart 1 of” before “part
17 B”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall be effective with respect to calendar
20 quarters beginning on or after October 1, 1993.

21 **SEC. 13212. GRANTS FOR STATE COURTS TO ASSESS AND**
22 **IMPROVE HANDLING OF PROCEEDINGS RE-**
23 **LATING TO FOSTER CARE AND ADOPTION.**

24 (a) IN GENERAL.—The Secretary shall make grants,
25 in accordance with this section, to the highest State courts

1 in States participating in the program under part E of
2 title IV of the Social Security Act, for the purpose of ena-
3 bling such courts—

4 (1) to conduct assessments, in accordance with
5 subsection (b), of the role, responsibilities, and effec-
6 tiveness of State courts in carrying out State laws
7 requiring proceedings (conducted by or under the su-
8 pervision of the courts)—

9 (A) to determine the advisability or appro-
10 priateness of foster care placement;

11 (B) to determine whether to terminate pa-
12 rental rights; and

13 (C) to legally recognize the adoption of a
14 child; and

15 (2) to implement changes deemed necessary as
16 a result of the assessments.

17 (b) ASSESSMENTS.—Each assessment conducted with
18 funds provided under this section shall—

19 (1) identify the requirements imposed on State
20 courts with respect to proceedings described in sub-
21 section (a), addressing separately—

22 (A) rules, standards, and criteria imposed
23 pursuant to State laws (including laws imple-
24 menting parts B and E of title IV of the Social
25 Security Act, laws relating to child abuse and

1 neglect, or any other laws on related matters)
2 to be applied in determinations with respect to
3 placement of a child, or with respect to related
4 matters concerning the parent-child relationship
5 and the welfare of the child, including deter-
6 minations—

7 (i) whether to remove a child from or
8 return a child to the home of the child;

9 (ii) whether to place a child in foster
10 care or to continue a foster care place-
11 ment;

12 (iii) whether to terminate parental
13 rights;

14 (iv) whether to place a child for adop-
15 tion or in another permanent arrangement;
16 and

17 (v) whether to set aside or to finalize
18 an adoption; and

19 (B) rules and procedures, established by or
20 under State law or adopted by the State court
21 system on its own initiative, with respect to the
22 conduct of such proceedings, that address mat-
23 ters such as—

24 (i) whether a proceeding should be ju-
25 dicial or administrative;

1 (ii) timetables for such proceedings,
2 and determinations of the priority of such
3 proceedings relative to other matters under
4 the jurisdiction of the State courts;

5 (iii) procedural safeguards of the
6 rights of parents (including foster and
7 adoptive parents), guardians, and children,
8 such as provisions for legal representation
9 and for guardians ad litem; and

10 (iv) rules for conduct of the proceed-
11 ing with respect to matters such as admis-
12 sible evidence, opportunity to present wit-
13 nesses, and time limits on the presentation
14 of evidence and the making of arguments;

15 (2) evaluate the performance of the State
16 courts in implementing the requirements identified
17 under paragraph (1), by assessing—

18 (A) the extent to which particular practices
19 or procedures have been successful in facilitat-
20 ing compliance with such requirements;

21 (B) the frequency of failures to comply
22 with any such requirements, and patterns with
23 respect to the circumstances of and factors con-
24 tributing to the failures; and

1 (C) the extent to which caseload size and
2 resource limitations contribute to the failures
3 identified pursuant to subparagraph (B);

4 (3) determine the extent to which the rules and
5 practices identified under paragraph (1) or (2) are
6 in accord with recommended standards of national
7 organizations concerned with permanent placement
8 for foster children;

9 (4) determine, from the standpoint of the State
10 courts, the extent to which particular requirements
11 under paragraph (1)—

12 (A) are facilitating or impeding achieve-
13 ment of the purposes of such parts B and E,
14 including the goal of appropriate permanent
15 placement for each child; and

16 (B) are imposing significant administrative
17 burdens on the State court system; and

18 (5) make specific recommendations for improve-
19 ment, based on the conclusions reached as a result
20 of activities described in paragraphs (1) through (4),
21 including recommendations for—

22 (A) changes in Federal or State laws, reg-
23 ulations, or policies;

24 (B) changes in procedures and practices of
25 the State courts and of the State agencies ad-

1 ministering foster care, adoption, child welfare,
2 and child protective services programs;

3 (C) additional education or training of
4 State court judges, or of personnel of the judi-
5 cial system or of the State agencies described in
6 subparagraph (B);

7 (D) collection or dissemination of addi-
8 tional data or information for purposes of in-
9 creasing the understanding of personnel of
10 State courts and State agencies of matters re-
11 lating to case review proceedings in general, or
12 to specific case review proceedings; and

13 (E) increases in manpower, reductions in
14 the number of case reviews, or other changes
15 needed to enable the State courts to better
16 manage their caseloads with respect to such
17 proceedings.

18 (c) APPLICATIONS.—In order to be eligible for a
19 grant under this section, a highest State court shall sub-
20 mit to the Secretary, at such time and in such form as
21 the Secretary may require, an application containing—

22 (1) a timetable for conducting and completing
23 the assessment;

24 (2) a budget for the assessment;

1 (3) a description of the methods to be used to
2 select State courts for inclusion in, and to conduct,
3 the assessment;

4 (4) certifications by the head of the State agen-
5 cy administering the State program under such part
6 E, and by the State foster care citizen review board
7 or State organization of such review boards (if any),
8 that such entities have had an opportunity to review
9 and comment on a draft of the application before its
10 submission, and a copy of such comments;

11 (5) a description of the process to be used by
12 the court to consult with the entities referred to in
13 paragraph (4) of this subsection in conducting the
14 assessment under subsection (b);

15 (6) an assurance that, to the extent funds pro-
16 vided under this section are not necessary to com-
17 plete the assessment under subsection (b), the court
18 will use such funds to implement, to the extent fea-
19 sible, recommendations made pursuant to subsection
20 (b)(5);

21 (7) an assurance that funds provided under this
22 section will not be used to supplant State or local
23 funds which would otherwise be used for similar
24 purposes;

25 (8) a commitment to furnish to the Secretary—

1 (A) an interim report following the end of
2 the 2nd year of assessment activities under this
3 section; and

4 (B) a final report following the completion
5 of the assessment; and

6 (9) any other information the Secretary may
7 require.

8 (d) ALLOTMENTS.—

9 (1) IN GENERAL.—Each highest State court
10 which has an application approved under subsection
11 (c), and is conducting assessment activities in ac-
12 cordance with this section, shall be entitled to pay-
13 ment, for each of fiscal years 1995 through 1998,
14 from amounts reserved pursuant to section
15 430(b)(2) of the Social Security Act, of an amount
16 equal to the sum of—

17 (A) for fiscal year 1995, \$75,000 plus the
18 amount described in paragraph (2) for fiscal
19 year 1995; and

20 (B) for each of fiscal years 1996 through
21 1998, \$85,000 plus the amount described in
22 paragraph (2) for each of such fiscal years.

23 (2) FORMULA.—The amount described in this
24 paragraph for any fiscal year is the amount that
25 bears the same ratio to the amount reserved pursu-

1 ant to section 430(b)(2) of the Social Security Act
2 for the fiscal year (reduced by the dollar amount
3 specified in paragraph (1) of this subsection for the
4 fiscal year) as the number of individuals in the State
5 who have not attained 21 years of age bears to the
6 total number of such individuals in all States the
7 highest State courts of which have approved applica-
8 tions under subsection (c).

9 (e) USE OF GRANT FUNDS.—Each highest State
10 court which receives funds paid under this section may
11 use such funds to pay—

12 (1) any or all costs of activities under this sec-
13 tion in fiscal year 1995; and

14 (2) not more than 75 percent of the cost of ac-
15 tivities under this section in each of fiscal years
16 1996, 1997, and 1998.

17 **SEC. 13213. REQUIRED PROTECTIONS FOR FOSTER CHIL-**
18 **DREN.**

19 (a) IN GENERAL.—Section 422(b) (42 U.S.C.
20 622(b)) is amended—

21 (1) by striking “and” at the end of paragraph
22 (7);

23 (2) by striking the period at the end of para-
24 graph (8) and inserting “; and”; and

25 (3) by adding at the end the following:

1 “(9) provide assurances that the State—

2 “(A) since June 17, 1980, has completed
3 an inventory of all children who, before the in-
4 ventory, had been in foster care under the re-
5 sponsibility of the State for 6 months or more,
6 which determined—

7 “(i) the appropriateness of, and neces-
8 sity for, the foster care placement;

9 “(ii) whether the child could or should
10 be returned to the parents of the child or
11 should be freed for adoption or other per-
12 manent placement; and

13 “(iii) the services necessary to facili-
14 tate the return of the child or the place-
15 ment of the child for adoption or legal
16 guardianship;

17 “(B) is operating, to the satisfaction of the
18 Secretary—

19 “(i) a statewide information system
20 from which can be readily determined the
21 status, demographic characteristics, loca-
22 tion, and goals for the placement of every
23 child who is (or, within the immediately
24 preceding 12 months, has been) in foster
25 care;

1 “(ii) a case review system (as defined
2 in section 475(5)) for each child receiving
3 foster care under the supervision of the
4 State;

5 “(iii) a service program designed to
6 help children—

7 “(I) where appropriate, return to
8 families from which they have been
9 removed; or

10 “(II) be placed for adoption, with
11 a legal guardian, or, if adoption or
12 legal guardianship is determined not
13 to be appropriate for a child, in some
14 other planned, permanent living ar-
15 rangement; and

16 “(iv) a preplacement preventive serv-
17 ices program designed to help children at
18 risk of foster care placement remain with
19 their families; and

20 “(C)(i) has reviewed (or within 12 months
21 after the date of the enactment of this para-
22 graph will review) State laws and administra-
23 tive and judicial procedures in effect for chil-
24 dren abandoned at or shortly after birth (in-

1 cluding laws and procedures providing for legal
2 representation of such children); and

3 “(ii) has enacted and is implementing (or
4 within 24 months after the date of the enact-
5 ment of this paragraph will enact and imple-
6 ment) such laws and procedures as the State
7 determines, on the basis of the review described
8 in clause (i), to be necessary to enable perma-
9 nent decisions to be made expeditiously with re-
10 spect to the placement of such children.”.

11 (b) RESTRICTION ON REALLOTMENT.—Section 424
12 (42 U.S.C. 624) is amended—

13 (1) in the 1st sentence, by striking “The
14 amount” and inserting the following:

15 “(a) IN GENERAL.—Subject to subsection (b), the
16 amount”; and

17 (2) by adding at the end the following:

18 “(b) EXCEPTION RELATING TO FOSTER CHILD PRO-
19 TECTIONS.—The Secretary shall not reallocate under sub-
20 section (a) of this section any amount that is withheld or
21 recovered from a State due to the failure of the State to
22 comply with section 422(b)(9).”.

23 (c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby
24 repealed.

25 (d) CONFORMING AMENDMENTS.—

1 (1) Section 423(a) (42 U.S.C. 623(a)) is
2 amended by striking “and in section 427”.

3 (2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is
4 amended by striking “the statistical report required
5 by section” and inserting “with section 422(b)(9)
6 or”.

7 (3) Section 472(d) (42 U.S.C. 672(d)) is
8 amended by striking “427(b)” and inserting
9 “422(b)(9)”.

10 (e) EFFECTIVE DATE.—The amendments and repeal
11 made by this section shall be effective for fiscal years be-
12 ginning on or after October 1, 1994.

13 (f) CONSTRUCTION OF SECTION.—This section and
14 the amendments and repeal made by this section shall not
15 be construed to permit any State to interrupt the provision
16 of the foster care protections described in section 427 of
17 the Social Security Act, as in effect on the effective date
18 of such amendments and repeal.

19 **SEC. 13214. STATES REQUIRED TO REPORT ON MEASURES**
20 **TAKEN TO COMPLY WITH THE INDIAN CHILD**
21 **WELFARE ACT.**

22 (a) STATE PLAN REQUIREMENT.—Section 422(b)
23 (42 U.S.C. 622(b)), as amended by section 13213(a) of
24 this Act, is amended—

1 (1) by striking “and” at the end of paragraph
2 (8);

3 (2) by striking the period at the end of para-
4 graph (9) and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(10) contain a description, developed after
7 consultation with tribal organizations (as defined in
8 section 4 of the Indian Self-Determination and Edu-
9 cation Assistance Act) in the State, of the specific
10 measures taken by the State to comply with the In-
11 dian Child Welfare Act.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall be effective with respect to calendar
14 quarters beginning on or after October 1, 1994.

15 **SEC. 13215. CHILD WELFARE TRAINEESHIPS.**

16 (a) IN GENERAL.—Part B of title IV (42 U.S.C.
17 620–628) is amended by inserting after section 428 the
18 following:

19 **“SEC. 429. CHILD WELFARE TRAINEESHIPS.**

20 “The Secretary may approve an application for a
21 grant to a public or nonprofit institution for higher learn-
22 ing to provide traineeships with stipends under section
23 426(a)(1)(C) only if the application—

24 “(1) provides assurances that each individual
25 who receives a stipend with such traineeship (in this

1 section referred to as a ‘recipient’) will enter into an
2 agreement with the institution under which the
3 recipient agrees—

4 “(A) to participate in training at a public
5 or private nonprofit child welfare agency on a
6 regular basis (as determined by the Secretary)
7 for the period of the traineeship;

8 “(B) to be employed for a period of years
9 equivalent to the period of the traineeship, in a
10 public or private nonprofit child welfare agency
11 in any State, within a period of time (deter-
12 mined by the Secretary in accordance with
13 regulations) after completing the postsecondary
14 education for which the traineeship was
15 awarded;

16 “(C) to furnish to the institution and the
17 Secretary evidence of compliance with subpara-
18 graphs (A) and (B); and

19 “(D) if the recipient fails to comply with
20 subparagraph (A) or (B) and does not qualify
21 for any exception to this subparagraph which
22 the Secretary may prescribe in regulations, to
23 repay to the Secretary all (or an appropriately
24 prorated part) of the amount of the stipend,
25 plus interest, and, if applicable, reasonable col-

1 lection fees (in accordance with regulations pro-
2 mulgated by the Secretary);

3 “(2) provides assurances that the institution
4 will—

5 “(A) enter into agreements with child wel-
6 fare agencies for onsite training of recipients;

7 “(B) permit an individual who is employed
8 in the field of child welfare services to apply for
9 a traineeship with a stipend if the traineeship
10 furtheres the progress of the individual toward
11 the completion of degree requirements; and

12 “(C) develop and implement a system that,
13 for the 3-year period that begins on the date
14 any student completes a child welfare services
15 program of study, tracks the employment
16 record of the student, for the purpose of deter-
17 mining the percentage of students who secure
18 employment in the field of child welfare services
19 and remain employed in the field.”.

20 (b) CONFORMING AMENDMENT.—Section
21 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by in-
22 serting “described in section 429” after “including
23 traineeships”.

1 (c) APPLICABILITY.—The amendments made by this
2 section shall apply to grants awarded on or after April
3 1, 1994.

4 **SEC. 13216. DISSOLVED ADOPTIONS.**

5 (a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE
6 PAYMENTS.—Section 472 (42 U.S.C. 672) is amended—

7 (1) in subsection (b), by inserting “or (i)” after
8 “subsection (a)”; and

9 (2) by adding at the end the following:

10 “(i) Any State with a plan approved under this part
11 may make foster care maintenance payments under this
12 part on behalf of a child—

13 “(1) with respect to whom such payments were
14 previously made;

15 “(2) whose adoption has been set aside by a
16 court;

17 “(3) who meets the requirements of paragraphs
18 (1), (2), and (3) of subsection (a); and

19 “(4) who fails to meet the requirements of sub-
20 section (a)(4) but would meet such requirements
21 if—

22 “(A) the child were treated as if the child
23 were in the same financial and other cir-
24 cumstances the child was in the last time the

1 child was determined eligible for such pay-
2 ments; and

3 “(B) the adoption were treated as having
4 never occurred.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to payments under part E of title
7 IV of the Social Security Act in fiscal years beginning on
8 or after October 1, 1995.

9 **SEC. 13217. TIME FRAME FOR JUDICIAL DETERMINATIONS**
10 **ON VOLUNTARY PLACEMENTS.**

11 (a) IN GENERAL.—Section 472(e) (42 U.S.C. 672(e))
12 is amended—

13 (1) by striking “No” and inserting “(1) Except
14 as provided in paragraph (2), no”; and

15 (2) by adding at the end the following:

16 “(2) If the judicial determination referred to in
17 paragraph (1) is made after the 180-day period de-
18 scribed therein, the payments referred to therein
19 may not be made for the period that begins at the
20 end of the 180-day period and ends 180 days after
21 the date of the judicial determination, but shall (un-
22 less otherwise prohibited) be made for periods there-
23 after.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall be effective with respect to foster care

1 maintenance payments made, under State plans in fiscal
2 year 1996 and succeeding fiscal years, on behalf of chil-
3 dren placed in foster care on or after October 1, 1995.

4 **SEC. 13218. STUDY OF REASONABLE EFFORTS.**

5 (a) IN GENERAL.—The Secretary of Health and
6 Human Services shall conduct a study of the implementa-
7 tion by the States of section 471(a)(15) of the Social Secu-
8 rity Act, giving particular attention to—

9 (1) standards used by States in determining
10 what action to take, and whether and for how long
11 to continue efforts—

12 (A) before the placement of a child in fos-
13 ter care, to prevent or eliminate the need for re-
14 moval of the child from the home of the child;
15 and

16 (B) to return a child home rather than to
17 seek some other planned, permanent placement;
18 and

19 (2) the responses of the courts to the State ac-
20 tions described in paragraph (1) of this subsection,
21 including whether such responses facilitate or im-
22 pede the achievement by State agencies of the objec-
23 tives of such section 471(a)(15).

24 (b) REPORT AND RECOMMENDATIONS.—Within 18
25 months after the date of the enactment of this Act, the

1 Secretary of Health and Human Services shall submit to
2 the Congress a report, with such recommendations as the
3 Secretary finds appropriate, based on the results of the
4 study required by subsection (a) of this section, which de-
5 scribes State practices that the Secretary has found effec-
6 tive in achieving the objectives of section 471(a)(15) of
7 the Social Security Act, and, if appropriate, shall set forth
8 model practices for consideration by the States.

9 **SEC. 13219. ENHANCED MATCH FOR AUTOMATED DATA**
10 **SYSTEMS.**

11 (a) PAYMENTS TO STATES.—

12 (1) IN GENERAL.—Section 474(a)(3) (42
13 U.S.C. 674(a)(3)) is amended—

14 (A) by striking “and” at the end of sub-
15 paragraph (B);

16 (B) by redesignating subparagraph (C) as
17 subparagraph (E); and

18 (C) by inserting after subparagraph (B)
19 the following:

20 “(C) 90 percent of so much of such ex-
21 penditures as are for the planning, design, de-
22 velopment, or installation of statewide mecha-
23 nized data collection and information retrieval
24 systems (including 90 percent of the full
25 amount of expenditures for hardware compo-

1 nents for such systems) but only to the extent
2 that such systems—

3 “(i) meet the requirements imposed
4 by regulations promulgated pursuant to
5 section 479(b)(2);

6 “(ii) to the extent practicable, are ca-
7 pable of interfacing with the State data
8 collection system that collects information
9 relating to child abuse and neglect;

10 “(iii) to the extent practicable, have
11 the capability of interfacing with, and re-
12 trieving information from, the State data
13 collection system that collects information
14 relating to the eligibility of individuals
15 under part A (for the purposes of facilitat-
16 ing verification of eligibility of foster chil-
17 dren); and

18 “(iv) are determined by the Secretary
19 to be likely to provide more efficient, eco-
20 nomical, and effective administration of
21 the programs carried out under a State
22 plan approved under part B or this part;
23 and

24 “(D) 50 percent of so much of such ex-
25 penditures as are for the operation of the state-

1 wide mechanized data collection and informa-
2 tion retrieval systems referred to in subpara-
3 graph (C); and”.

4 (2) TREATMENT OF STATE EXPENDITURES FOR
5 DATA COLLECTION AND INFORMATION RETRIEVAL
6 SYSTEMS.—Section 474 (42 U.S.C. 674), as amend-
7 ed by section 13224 of this Act, is amended by add-
8 ing at the end the following:

9 “(c) AUTOMATED DATA COLLECTION EXPENDI-
10 TURES.—The Secretary shall treat as necessary for the
11 proper and efficient administration of the State plan all
12 expenditures of a State necessary in order for the State
13 to plan, design, develop, install, and operate data collec-
14 tion and information retrieval systems described in sub-
15 section (a)(3)(C), without regard to whether the systems
16 may be used with respect to foster or adoptive children
17 other than those on behalf of whom foster care mainte-
18 nance payments or adoption assistance payments may be
19 made under this part.”.

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to expenditures during
22 fiscal years 1994, 1995, and 1996.

23 (b) TERMINATION OF ENHANCED MATCH.—

24 (1) IN GENERAL.—Section 474(a)(3)(C) (42
25 U.S.C. 674(a)(3)(C)), as amended by subsection (a)

1 of this section, is amended by striking “90 percent”
2 each place such term appears and inserting “50 per-
3 cent”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1) shall apply to expenditures during
6 fiscal years beginning on or after October 1, 1996.

7 **SEC. 13220. PERIODIC REEVALUATION OF FOSTER CARE**
8 **MAINTENANCE PAYMENTS.**

9 (a) IN GENERAL.—Section 471(a)(11) (42 U.S.C.
10 671(a)(11)) is amended—

11 (1) by inserting “(A)” after “(11)”;

12 (2) by striking “and amounts paid as foster
13 care maintenance payments and adoption assist-
14 ance”; and

15 (3) by adding at the end the following:

16 “(B) provides that, at least once every 3 years,
17 the State agency will review the amount paid as fos-
18 ter care maintenance payments and adoption assist-
19 ance payments to ensure their continuing appro-
20 priateness, and will submit to the Secretary (and
21 make available to the public) a report on the results
22 of the review, in such form and manner as the Sec-
23 retary may by regulation require, which contains, at
24 a minimum—

1 “(i) a statement of the manner in which
2 the foster care maintenance payment level is de-
3 termined, including information on the cost of
4 foster care with respect to which such payments
5 are made;

6 “(ii) information on the amount of the
7 basic foster care maintenance payment level,
8 and as to whether such payment level includes
9 an amount to cover the cost of clothing, and
10 whether such payment level varies by the type
11 of care or the special needs or age of the child,
12 and, if so, the payment levels for each special
13 needs, care, or age category;

14 “(iii) if such payments are not made at a
15 different rate for children who test positive for
16 human immunodeficiency virus, have acquired
17 immune deficiency syndrome, are addicted to
18 drugs, suffer from complications due to expo-
19 sure to drugs or alcohol, or have other severe
20 special needs, the reasons therefor; and

21 “(iv) information on any limitations im-
22 posed by the State on adoption assistance pay-
23 ment levels;”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall be effective with respect to calendar
3 quarters beginning on or after October 1, 1994.

4 **SEC. 13221. DISPOSITIONAL HEARING.**

5 Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended
6 by striking “periodically” and inserting “not less fre-
7 quently than every 12 months”.

8 **SEC. 13222. HEALTH CARE PLANS FOR FOSTER CHILDREN.**

9 (a) IN GENERAL.—Section 475(1)(C) (42 U.S.C.
10 675(1)(C)) is amended—

11 (1) in clause (vii), by striking “and”; and

12 (2) by redesignating clause (viii) as clause (ix)

13 and inserting after clause (vii) the following:

14 “(viii) a record indicating that the child’s
15 foster care provider was advised (where appro-
16 priate) of the child’s eligibility for early and
17 periodic screening, diagnostic, and treatment
18 services under title XIX; and”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to case plans established or re-
21 viewed on or after January 1, 1994.

22 **SEC. 13223. INDEPENDENT LIVING.**

23 (a) TREATMENT OF ASSETS OF PARTICIPATING
24 YOUTHS.—Section 477 (42 U.S.C. 677) is amended—

1 (1) by redesignating subsection (i) as subsection
2 (j); and

3 (2) by inserting after subsection (h) the follow-
4 ing:

5 “(i) Notwithstanding any other provision of this title,
6 with respect to a child who is included in a program estab-
7 lished by a State agency under subsection (a), an amount
8 of the assets of the child which would otherwise be re-
9 garded as resources for purposes of determining eligibility
10 for benefits under this title may be disregarded for the
11 purpose of allowing the child to establish a household, pur-
12 sue education, or otherwise complete the transition to
13 independent living. The amount disregarded may not ex-
14 ceed an amount determined by the State agency to be rea-
15 sonable for such purposes.”.

16 (b) PERMANENT EXTENSION OF PROGRAM.—Section
17 477 (42 U.S.C. 677) is amended—

18 (1) in subsection (a)(1), by striking the 3rd
19 sentence;

20 (2) in subsection (c), by striking “of the fiscal
21 years 1988 through 1992” and inserting “succeed-
22 ing fiscal year”;

23 (3) in subsection (e)(1)(A), by striking “each of
24 the fiscal years 1987 through 1992” and inserting
25 “fiscal year 1987 and any succeeding fiscal year”;

1 (4) in subsection (e)(1)(B), by striking “fiscal
2 years 1991 and 1992” and inserting “fiscal year
3 1991 and any succeeding fiscal year”; and

4 (5) in subsection (e)(1)(C)(ii), by striking “fis-
5 cal year 1992” and inserting “any succeeding fiscal
6 year”.

7 (c) EFFECTIVE DATES.—

8 (1) TREATMENT OF ASSETS OF PARTICIPATING
9 YOUTHS.—The amendments made by subsection (a)
10 shall apply to activities in fiscal years beginning on
11 or after October 1, 1995.

12 (2) PERMANENT EXTENSION OF PROGRAM.—
13 The amendments made by subsection (b) shall apply
14 to activities engaged in on or after October 1, 1992.

15 **SEC. 13224. ELIMINATION OF FOSTER CARE CEILINGS AND**
16 **OF AUTHORITY TO TRANSFER UNUSED FOS-**
17 **TER CARE FUNDS TO CHILD WELFARE SERV-**
18 **ICES PROGRAMS.**

19 (a) REPEAL.—Subsections (b) and (c) of section 474
20 (42 U.S.C. 674(b) and (c)) are hereby repealed.

21 (b) CONFORMING AMENDMENTS.—Section 474 (42
22 U.S.C. 674) is amended—

23 (1) in subsection (d)(1)—

24 (A) by striking “subsections (a), (b), and
25 (c)” and inserting “subsection (a)”; and

1 (B) by striking “the provisions of such
2 subsections” and inserting “subsection (a)”;
3 and

4 (2) by redesignating subsection (d) as sub-
5 section (b).

6 (c) EFFECTIVE DATE.—The amendments and repeal
7 made by this section shall apply to payments for calendar
8 quarters beginning on or after October 1, 1993.

9 **SEC. 13225. TRAINING OF AGENCY STAFF AND FOSTER**
10 **AND ADOPTIVE PARENTS.**

11 (a) IN GENERAL.—Section 8006(b) of the Omnibus
12 Budget Reconciliation Act of 1989 (42 U.S.C. 674 note)
13 is amended by striking “, and before October 1, 1992”.

14 (b) RETROACTIVE APPLICABILITY.—The Social Secu-
15 rity Act shall be applied and administered as if the amend-
16 ment made by subsection (a) had been made on October
17 1, 1992.

18 **SEC. 13226. ON-SITE REVIEWS AND AUDITS OF STATE**
19 **CLAIMS FOR FOSTER CARE AND ADOPTION**
20 **ASSISTANCE.**

21 (a) ON-SITE REVIEWS AND AUDITS OF STATE
22 CLAIMS.—Section 474 (42 U.S.C. 674), as amended by
23 sections 13224 and 13219(a)(2) of this Act, is amended—

24 (1) by redesignating subsection (c) as sub-
25 section (d); and

1 (2) by inserting after subsection (b) the follow-
2 ing:

3 “(c) ON-SITE REVIEWS AND AUDITS OF STATE
4 CLAIMS FOR PAYMENT.—

5 “(1) REGULATIONS SPECIFYING REVIEW
6 STANDARDS.—The Secretary shall promulgate regu-
7 lations applicable to on-site reviews and audits of
8 State expenditures for foster care maintenance pay-
9 ments and adoption assistance payments under this
10 part, which specify—

11 “(A) the criteria to be used to determine
12 the appropriateness of expenditures identified in
13 sampled case files;

14 “(B) the criteria to be used to determine
15 the appropriateness of expenditures for child
16 placement services and plan administration; and

17 “(C) the types of erroneous expenditures
18 which will be disregarded for purposes of deter-
19 mining the appropriateness of payments under
20 this part (including erroneous payments result-
21 ing from the State’s reliance upon and correct
22 use of formal written statements of Federal law
23 or policy provided to the State by the Sec-
24 retary).

1 “(2) DEVELOPMENT AND PUBLICATION OF
2 WRITTEN STANDARDS AND PROCEDURES.—The Sec-
3 retary, after consultation with organizations rep-
4 resenting State and local governmental agencies with
5 responsibility for foster care and adoption services
6 and other relevant agencies and organizations, shall
7 develop and furnish to State agencies a written de-
8 scription of the methods and procedures to be used
9 in the on-site audits and reviews referred to in para-
10 graph (1), which specify—

11 “(A) the methods and procedures to be
12 used to select a sample of case files for review
13 or audit;

14 “(B) the procedures to be used in review-
15 ing or auditing sampled case files to determine
16 erroneous expenditures;

17 “(C) the procedures to be used to review or
18 audit State expenditures for child placement
19 services and plan administration; and

20 “(D) the methodology to be used to ex-
21 trapolate from review or audit findings to all
22 expenditures under the State plan.

23 “(3) ADVANCE NOTICE TO STATES.—The Sec-
24 retary shall not, in a review or audit of State ex-
25 penditures during a fiscal year, use any criterion

1 specified pursuant to paragraph (1), or any proce-
2 dure or methodology specified pursuant to para-
3 graph (2), which was not published in final regula-
4 tions or furnished in writing to the State (as appli-
5 cable) at least 3 months before the beginning of the
6 fiscal year.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to expenditures in fiscal years
9 beginning on or after October 1, 1994.

10 **SEC. 13227. CONFORMITY REVIEWS.**

11 (a) IN GENERAL.—Part A of title XI (42 U.S.C.
12 1301–1320b–13) is amended by inserting after section
13 1122 the following:

14 **“SEC. 1123. REVIEWS OF CHILD AND FAMILY SERVICES**
15 **PROGRAMS, AND OF FOSTER CARE AND**
16 **ADOPTION ASSISTANCE PROGRAMS, FOR**
17 **COMPLIANCE WITH STATE PLAN REQUIRE-**
18 **MENTS.**

19 “(a) IN GENERAL.—The Secretary shall not impose
20 a financial penalty on any State for any failure of the
21 State programs under parts B and E of title IV to comply
22 with any requirement of any State plan approved under
23 such part B or E, except pursuant to final regulations,
24 developed after consultation with State agencies admin-

1 istering such programs, which meet the requirements of
2 this section.

3 “(b) ELEMENTS OF REVIEW SYSTEM.—The regula-
4 tions referred to in subsection (a) shall—

5 “(1) specify the timetable for compliance re-
6 views of State programs, which—

7 “(A) shall provide for annual reviews of
8 each State program during the 1st 2 years of
9 operation;

10 “(B) shall provide for review of a State
11 program not later than 1 year following a re-
12 view in which the State program was found not
13 to be in substantial compliance with plan re-
14 quirements; and

15 “(C) may provide for less frequent reviews
16 of State programs which have been found to be
17 in substantial compliance with plan require-
18 ments, but shall permit the Secretary to rein-
19 state more frequent reviews based on informa-
20 tion which indicates that the State program
21 may not be in compliance with plan require-
22 ments;

23 “(2) specify the plan requirements subject to
24 review, and the criteria to be used to measure com-
25 pliance with such requirements and to determine

1 whether there is a substantial failure to comply with
2 a plan requirement;

3 “(3) specify the method to be used to determine
4 the financial penalty to be imposed (subject to para-
5 graph (4)) for a failure to comply with plan require-
6 ments, which ensures that—

7 “(A) a financial penalty will not be im-
8 posed with respect to a program, unless it is de-
9 termined that the program fails substantially to
10 so comply;

11 “(B) a financial penalty will not be im-
12 posed for a failure to so comply resulting from
13 the State’s reliance upon and correct use of for-
14 mal written statements of Federal law or policy
15 provided to the State by the Secretary; and

16 “(C) the amount of financial penalty is re-
17 lated to the extent of the noncompliance; and

18 “(4) require the Secretary, with respect to any
19 State found to have failed substantially to comply
20 with plan requirements—

21 “(A) to afford the State an opportunity to
22 adopt and implement a corrective action plan,
23 approved by the Secretary, designed to end the
24 noncompliance;

1 “(B) to make technical assistance available
2 to the State to the extent necessary to enable
3 the State to develop and implement such a cor-
4 rective action plan;

5 “(C) to suspend the imposition of any pen-
6 alty under this section while such a corrective
7 action plan is in effect; and

8 “(D) to rescind any such penalty if the
9 noncompliance is ended by successful comple-
10 tion of such a corrective action plan.

11 “(c) PROVISIONS FOR ADMINISTRATIVE AND JUDI-
12 CIAL REVIEW.—The regulations referred to in subsection
13 (a) shall—

14 “(1) require the Secretary, not later than 10
15 days after a determination that a program of the
16 State is not in compliance with applicable plan
17 requirements, to notify the State of—

18 “(A) the basis for the determination; and

19 “(B) the amount of the financial penalty
20 (if any) imposed on the State;

21 “(2) afford the State an opportunity to appeal
22 the determination to the Departmental Appeals
23 Board within 60 days after receipt of the notice de-
24 scribed in paragraph (1) (or, if later, after failure to

1 continue or to complete a corrective action plan);
2 and

3 “(3) afford the State an opportunity to obtain
4 judicial review of an adverse decision of the Board,
5 within 60 days after the State receives notice of the
6 decision of the Board, by appeal to the district court
7 of the United States for the judicial district in which
8 the principal or headquarters office of the agency re-
9 sponsible for administering the program is located.”.

10 (b) CONFORMING AMENDMENT.—Section 471(b) (42
11 U.S.C. 671(b)) is amended by striking all that follows the
12 1st sentence.

13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall take effect on the date of
15 the enactment of this Act.

16 (d) CONSTRUCTION.—This section shall not be con-
17 strued to prevent the Secretary, before the effective date
18 of final regulations meeting the requirements of section
19 1123 of the Social Security Act, from conducting compli-
20 ance reviews of State programs under parts B and E of
21 such Act for the purpose of providing information and
22 technical assistance to States concerning corrective actions
23 needed in order to comply with plan requirements applica-
24 ble to such programs.

1 **SEC. 13228. REPEAL OF ANNUAL REPORT ON VOLUNTARY**
2 **PLACEMENT.**

3 Section 102(e) of the Adoption Assistance and Child
4 Welfare Act of 1980 (42 U.S.C. 672 note) is hereby
5 repealed.

6 **SEC. 13229. DEMONSTRATION PROJECTS.**

7 Part A of title XI (42 U.S.C. 1301–1320b–13) is
8 amended by inserting after section 1128B the following:

9 **“SEC. 1129. DEMONSTRATION PROJECTS.**

10 “(a) **IN GENERAL.**—The Secretary may authorize not
11 more than 10 States to conduct demonstration projects
12 pursuant to this section which the Secretary finds are like-
13 ly to promote the objectives of part B or E of title IV.

14 “(b) **WAIVER AUTHORITY.**—The Secretary may
15 waive compliance with any requirement of part B or E
16 of title IV which (if applied) would prevent a State from
17 carrying out a demonstration project under this section
18 or prevent the State from effectively achieving the purpose
19 of such a project, except that the Secretary may not
20 waive—

21 “(1) any provision of section 427 (as in effect
22 before October 1, 1994), section 422(b)(9) (as in ef-
23 fect after such date), or section 479; or

24 “(2) any provision of such part E, to the extent
25 that the waiver would impair the entitlement of any

1 qualified child or family to benefits under a State
2 plan approved under such part E.

3 “(c) TREATMENT AS PROGRAM EXPENDITURES.—
4 For purposes of parts B and E of title IV, the Secretary
5 shall consider the expenditures of any State to conduct
6 a demonstration project under this section to be expendi-
7 tures under subpart 1 or 2 of such part B, or under such
8 part E, as the State may elect.

9 “(d) DURATION OF DEMONSTRATION.—A dem-
10 onstration project under this section may be conducted for
11 not more than 5 years.

12 “(e) APPLICATION.—Any State seeking to conduct a
13 demonstration project under this section shall submit to
14 the Secretary an application, in such form as the Sec-
15 retary may require, which includes—

16 “(1) a description of the proposed project, the
17 geographic area in which the proposed project would
18 be conducted, the children or families who would be
19 served by the proposed project, and the services
20 which would be provided by the proposed project
21 (which shall provide, where appropriate, for random
22 assignment of children and families to groups served
23 under the project and to control groups);

24 “(2) a statement of the period during which the
25 proposed project would be conducted;

1 “(3) a discussion of the benefits that are ex-
2 pected from the proposed project (compared to a
3 continuation of activities under the approved plan or
4 plans of the State);

5 “(4) an estimate of the costs or savings of the
6 proposed project;

7 “(5) a statement of program requirements for
8 which waivers would be needed to permit the pro-
9 posed project to be conducted;

10 “(6) a description of the proposed evaluation
11 design; and

12 “(7) such additional information as the Sec-
13 retary may require.

14 “(f) EVALUATIONS; REPORT.—Each State authorized
15 to conduct a demonstration project under this section
16 shall—

17 “(1) obtain an evaluation by an independent
18 contractor of the effectiveness of the project, using
19 an evaluation design approved by the Secretary
20 which provides for—

21 “(A) comparison of methods of service de-
22 livery under the project, and such methods
23 under a State plan or plans, with respect to ef-
24 ficiency, economy, and any other appropriate
25 measures of program management;

1 “(B) comparison of outcomes for children
2 and families (and groups of children and fami-
3 lies) under the project, and such outcomes
4 under a State plan or plans, for purposes of as-
5 sessing the effectiveness of the project in
6 achieving program goals; and

7 “(C) any other information that the Sec-
8 retary may require; and

9 “(2) provide interim and final evaluation re-
10 ports to the Secretary, at such times and in such
11 manner as the Secretary may require.

12 “(g) COST NEUTRALITY.—The Secretary may not
13 authorize a State to conduct a demonstration project
14 under this section unless the Secretary determines that
15 the total amount of Federal funds that will be expended
16 under (or by reason of) the project over its approved term
17 (or such portion thereof or other period as the Secretary
18 may find appropriate) will not exceed the amount of such
19 funds that would be expended by the State under the State
20 plans approved under parts B and E of title IV if the
21 project were not conducted.”.

22 **SEC. 13230. PLACEMENT ACCOUNTABILITY.**

23 (a) CASE PLAN REQUIREMENTS.—Section 475(5)(A)
24 (42 U.S.C. 675(5)(A)) is amended by adding at the end
25 the following: “which—

1 “(i) if the child has been placed in a
2 foster family home or child-care institution
3 a substantial distance from the home of
4 the parents of the child, or in a State dif-
5 ferent from the State in which the home is
6 located, sets forth the reasons why such
7 placement is in the best interests of the
8 child, and

9 “(ii) if the child has been placed in
10 foster care outside the State, requires that,
11 at least every 6 months, a caseworker on
12 the staff of the State agency of the State
13 in which the home of the parents of the
14 child is located, or of the State in which
15 the child has been placed, visit such child
16 in such home or institution and submit a
17 report on such visit to the State agency of
18 the State in which the home of the parents
19 of the child is located,”.

20 (b) DISPOSITIONAL HEARING.—Section 475(5)(C)
21 (42 U.S.C. 675(5)(C)) is amended by inserting “and, in
22 the case of a child described in subparagraph (A)(ii),
23 whether the out-of-State placement continues to be appro-
24 priate and in the best interests of the child,” after “long-
25 term basis)”.

1 (c) DATA COLLECTION.—Section 479(c)(3)(C) (42
2 U.S.C. 679(c)(3)(C)) is amended—

3 (1) by striking “and” at the end of clause (i);

4 and

5 (2) by adding at the end the following:

6 “(iii) children placed in foster care
7 outside the State, and”.

8 (d) EFFECTIVE DATES.—The amendments made by
9 subsections (a), (b), and (c) shall be effective with respect
10 to fiscal years beginning on and after October 1, 1994.

11 **SEC. 13231. PAYMENTS OF STATE CLAIMS FOR FOSTER**
12 **CARE AND ADOPTION ASSISTANCE.**

13 Section 474(b) (42 U.S.C. 674(b)), as so redesign-
14 nated by section 13239(b)(2) of this Act, is amended by
15 adding at the end the following:

16 “(4)(A) Within 60 days after receipt of a State claim
17 for expenditures pursuant to subsection (a), the Secretary
18 shall allow, disallow, or defer such claim.

19 “(B) Within 15 days after a decision to defer such
20 a State claim, the Secretary shall notify the State of the
21 reasons for the deferral and of the additional information
22 necessary to determine the allowability of the claim.

23 “(C) Within 90 days after receiving such necessary
24 information (in readily reviewable form), the Secretary
25 shall—

1 “(i) disallow the claim, if able to complete the
2 review and determine that the claim is not allowable,
3 or

4 “(ii) in any other case, allow the claim, subject
5 to disallowance (as necessary)—

6 “(I) upon completion of the review, if it is
7 determined that the claim is not allowable; or

8 “(II) on the basis of findings of an audit
9 or financial management review.”.

10 **SEC. 13232. MORATORIUM ON COLLECTION OF DISALLOW-**
11 **ANCES.**

12 The Secretary of Health and Human Services shall
13 not—

14 (1) before October 1, 1994, reduce any pay-
15 ment to, withhold any payment from, or seek any re-
16 payment from any State under part B or E of title
17 IV of the Social Security Act by reason of a deter-
18 mination made in connection with a review of State
19 compliance with section 427 of such Act for any
20 Federal fiscal year before fiscal year 1995; or

21 (2) reduce any payment to, withhold any pay-
22 ment from, or seek any repayment from any State
23 under such part E by reason of a determination
24 made in connection with any on-site Federal finan-

1 cial review, or any audit conducted by the Inspector
2 General using similar methodologies.

3 **SEC. 13233. BORDER REGION CHILD WELFARE WORKER**
4 **TRAINING DEMONSTRATION.**

5 (a) IN GENERAL.—The Secretary shall make grants
6 to not more than 5 eligible institutions to train individuals
7 to deliver culturally sensitive and bilingual child welfare
8 services in areas of the United States that border on Mex-
9 ico, 1 of which grants shall be for training to deliver child
10 welfare services to historically unserved or underserved
11 populations in an urban center with a high concentration
12 of such populations.

13 (b) APPLICATIONS.—The Secretary shall approve an
14 application of an institution for a grant under this section
15 only if the application—

16 (1) demonstrates to the satisfaction of the Sec-
17 retary that the institution has a history of, or a plan
18 for, training students to deliver culturally sensitive
19 and bilingual child welfare services in a border
20 county;

21 (2) provides assurances that the institution will
22 develop and implement, in consultation with the
23 child welfare agency of the State in which the insti-
24 tution is located, a curriculum in the field of child
25 welfare services which—

1 (A) is sensitive to the culture of—

2 (i) the areas of the United States that
3 border on Mexico; or

4 (ii) in the case of the institution which
5 receives the urban center grant described
6 in subsection (a), the historically unserved
7 or underserved populations in the urban
8 center; and

9 (B) includes training for identification of
10 health problems of children and their families
11 and of child abuse and neglect;

12 (3) provides assurances that each individual
13 who receives a stipend with such training will enter
14 into an agreement with the institution under which
15 the individual agrees—

16 (A) to be employed for a period of years
17 equivalent to the period of such training, in a
18 public or private nonprofit family assistance
19 agency that provides services directly to resi-
20 dents of—

21 (i) the border county in which the
22 agency is located; or

23 (ii) in the case of the institution which
24 receives the urban center grant described

1 in subsection (a), the urban center in
2 which the agency is located; and

3 (B) if the individual fails to be so em-
4 ployed for such period, to repay to the Sec-
5 retary, in accordance with such conditions as
6 the Secretary may prescribe, all or part of the
7 amount of the stipend, plus interest, and, if ap-
8 plicable, reasonable collection fees; and

9 (4) provides that each agreement entered into
10 with an individual pursuant to paragraph (3) will
11 fully disclose the terms and conditions under which
12 the stipend is to be provided.

13 (c) EVALUATIONS.—Each institution that receives a
14 grant under this section shall develop and carry out a plan
15 for evaluating the effects of the training provided under
16 the grant, and shall submit to the Secretary a report on
17 the evaluation.

18 (d) DEFINITIONS.—As used in this section:

19 (1) FAMILY ASSISTANCE AGENCY.—The term
20 “family assistance agency” means a child welfare
21 agency, family planning agency, hospital, clinic, com-
22 munity mental health facility, or drug and alcohol
23 treatment program.

24 (2) ELIGIBLE INSTITUTION.—The term “eligi-
25 ble institution” means a public or private nonprofit

1 institution of higher learning that is located in a
2 State that contains a border county.

3 (3) BORDER COUNTY.—The term “border coun-
4 ty” means—

5 (A) a United States county that borders on
6 Mexico; and

7 (B) a United States county that borders
8 on a county described in subparagraph (A).

9 (4) URBAN CENTER.—The term “urban center”
10 means an area in a metropolitan statistical area, as
11 designated by the Office of Management and Budg-
12 et, which has a high incidence of individuals in his-
13 torically unserved or underserved populations who
14 are in need of social services, as determined by the
15 Secretary using the most recent and best available
16 information.

17 (5) HISTORICALLY UNSERVED OR UNDER-
18 SERVED POPULATIONS.—The term “historically
19 unserved or underserved populations” includes—

20 (A) socially and economically disadvan-
21 taged populations;

22 (B) persons with limited English pro-
23 ficiency;

24 (C) populations residing in urban areas
25 and exhibiting a high incidence of child abuse,

1 neglect, or abandonment, as determined by the
2 Secretary;

3 (D) homeless persons (within the meaning
4 of section 103 of the Stewart B. McKinney
5 Homeless Assistance Act);

6 (E) persons who are, or are in danger of
7 becoming, infected with the human
8 immunodeficiency virus; and

9 (F) persons who abuse alcohol or drugs.

10 (6) SECRETARY.—The term “Secretary” means
11 the Secretary of Health and Human Services.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as may be
14 necessary to carry out this section.

15 **SEC. 13234. EFFECT OF FAILURE TO CARRY OUT STATE**
16 **PLAN.**

17 (a) IN GENERAL.—Part A of title XI (42 U.S.C.
18 1301–1320b–13), as amended by section 13229 of this
19 Act, is amended by inserting after section 1129 the follow-
20 ing:

21 **“SEC. 1130. EFFECT OF FAILURE TO CARRY OUT STATE**
22 **PLAN.**

23 “In an action brought to enforce a provision of the
24 Social Security Act, such provision is not to be deemed
25 unenforceable because of its inclusion in a section of the

1 Act requiring a State plan or specifying the required con-
2 tents of a State plan. This section is not intended to limit
3 or expand the grounds for determining the availability of
4 private actions to enforce State plan requirements other
5 than by overturning any such grounds applied in *Suter*
6 *v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in
7 prior Supreme Court decisions respecting such enforce-
8 ability: *Provided, however,* That this section is not in-
9 tended to alter the holding in *Suter v. Artist M.* that sec-
10 tion 471(a)(15) of the Act is not enforceable in a private
11 right of action.”.

12 (b) APPLICABILITY.—The amendment made by sub-
13 section (a) shall apply to actions pending on the date of
14 the enactment of this Act and to actions brought on or
15 after such date of enactment.

16 **CHAPTER 2—CHILD SUPPORT**
17 **ENFORCEMENT**

18 **SEC. 13241. STATE PATERNITY ESTABLISHMENT PRO-**
19 **GRAMS.**

20 (a) PERFORMANCE STANDARDS.—Section 452(g) (42
21 U.S.C. 652(g)) is amended—

22 (1) in paragraph (1)—

23 (A) by striking “1991” and inserting
24 “1994”;

1 (B) by inserting “is based on reliable data
2 and” before “equals or exceeds”; and

3 (C) by striking subparagraphs (A), (B),
4 and (C) and inserting the following:

5 “(A) 75 percent;

6 “(B) for a State with a paternity establishment
7 percentage of not less than 50 percent but less than
8 75 percent for the fiscal year, the paternity estab-
9 lishment percentage of the State for the immediately
10 preceding year plus 3 percentage points; or

11 “(C) for a State with a paternity establishment
12 percentage of less than 50 percent for such fiscal
13 year, the paternity establishment percentage of the
14 State for the immediately preceding year plus 6 per-
15 centage points.”; and

16 (2) in paragraph (2)—

17 (A) by striking “(or under all such plans)”
18 each place such term appears;

19 (B) by inserting “or part E” after “under
20 part A” each place such term appears;

21 (C) by amending subparagraph (B) to read
22 as follows:

23 “(B) the term ‘reliable data’ means the
24 most recent data available which are found by

1 the Secretary to be reliable for purposes of this
2 section.”;

3 (D) by inserting “unless paternity is estab-
4 lished for such child” after “the death of a par-
5 ent”;

6 (E) by striking “parent or” and inserting
7 “parent,”; and

8 (F) by inserting “, or any child with re-
9 spect to whom the State agency administering
10 the plan under part E determines (as provided
11 in section 454(4)(B)) that it is against the best
12 interest of such child to do so” after “cooperate
13 under section 402(a)(26)”.

14 (b) STATE PLAN REQUIREMENTS.—

15 (1) REQUIRED PROCEDURES.—Section 466(a)
16 (42 U.S.C. 666(a)) is amended—

17 (A) in paragraph (2)—

18 (i) by striking “at the option of the
19 State,”; and

20 (ii) by inserting “and paternity estab-
21 lishment” after “support order issuance
22 and enforcement”;

23 (B) in paragraph (5), by adding at the end
24 the following:

1 “(C) Procedures for a simple civil process
2 for voluntarily acknowledging paternity under
3 which the State must explain the rights and re-
4 sponsibilities of acknowledging paternity, and
5 afford due process safeguards. Such procedures
6 must include (i) a hospital-based program for
7 the voluntary acknowledgment of paternity dur-
8 ing the period immediately before or after the
9 birth of a child, and (ii) the inclusion of signa-
10 ture lines on applications for official birth cer-
11 tificates which, once signed by the father and
12 the mother, are considered a voluntary acknowl-
13 edgment of paternity.

14 “(D) Procedures under which the vol-
15 untary acknowledgment of paternity of a child
16 by an individual in the manner described in
17 subparagraph (C)(ii) creates a rebuttable or, at
18 the option of the State, conclusive presumption
19 that the individual is the father of the child,
20 and under which such a voluntary acknowledg-
21 ment is admissible as evidence of paternity.

22 “(E) Procedures under which a voluntary
23 acknowledgment of paternity in the manner de-
24 scribed in subparagraph (C)(ii) must be recog-
25 nized as a basis for seeking a support order

1 without first requiring any further proceedings
2 to establish paternity.

3 “(F) Procedures requiring that (i) any ob-
4 jection to genetic testing results be made in
5 writing within a specified number of days be-
6 fore any hearing at which such results may be
7 introduced into evidence, and (ii) if no objection
8 is made, the test results be admissible as evi-
9 dence of paternity without the need for founda-
10 tion testimony or other proof of authenticity or
11 accuracy.

12 “(G) Procedures which create a rebuttable
13 or, at the option of the State, conclusive pre-
14 sumption of paternity of a child, upon genetic
15 testing results indicating a threshold probability
16 of the alleged father being the father of the
17 child.

18 “(H) Procedures requiring a default order
19 to be entered in a paternity case upon a show-
20 ing that process has been served on the defend-
21 ant and any additional showing required by
22 State law.”; and

23 (C) by inserting after paragraph (10) the
24 following:

1 “(11) Procedures under which a State must
2 give full faith and credit to a determination of pater-
3 nity made by any other State, whether established
4 through voluntary acknowledgment or through ad-
5 ministrative or judicial processes.”.

6 (2) FURNISHING OF SOCIAL SECURITY NUM-
7 BERS.—

8 (A) IN GENERAL.—Section 466(a) (42
9 U.S.C. 666(a)), as amended by paragraph
10 (1)(C) of this subsection, is amended by insert-
11 ing after paragraph (11) the following:

12 “(12)(A) Procedures under which, in the ad-
13 ministration of any law involving the issuance,
14 reissuance, or amendment of a birth certificate, the
15 State shall require each parent to furnish to the
16 State, or any agency or political subdivision thereof
17 having administrative responsibility for the law in-
18 volved, the social security account number (or num-
19 bers, if the parent has more than 1 such number)
20 issued to the parent, unless the State (in accordance
21 with regulations prescribed by the Secretary) finds
22 good cause for not requiring the furnishing of the
23 number.

24 “(B) Procedures under which any number fur-
25 nished under subparagraph (A) shall be made avail-

1 able to the agency administering the State plan
2 under this part, in accordance with Federal or State
3 law or regulation.

4 “(C) Procedures under which—

5 “(i) any number furnished under subpara-
6 graph (A) shall not be recorded on the birth
7 certificate; and

8 “(ii) any social security account number,
9 obtained with respect to the issuance by the
10 State of any birth certificate, shall not be used
11 for other than child support purposes, unless
12 section 7(a) of the Privacy Act of 1974 does
13 not prohibit the State from requiring the disclo-
14 sure of the number, by reason of the State hav-
15 ing adopted, before January 1, 1975, a statute
16 or regulation requiring such disclosure.”.

17 (B) CONFORMING AMENDMENTS.—Section
18 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is
19 amended—

20 (i) by striking “(ii) In the administra-
21 tion of any law involving the issuance” and
22 inserting “(ii) In the administration of any
23 law involving the issuance, reissuance, or
24 amendment”; and

1 (ii) by striking “any purpose other
2 than for the enforcement of child support
3 orders in effect in the State” and inserting
4 “other than child support purposes”.

5 (c) CONFORMING REPEAL.—Section 468 (42 U.S.C.
6 668) is hereby repealed.

7 (d) EFFECTIVE DATE.—The amendments and repeal
8 made by this section shall become effective with respect
9 to a State—

10 (1) on October 1, 1993, or, if later

11 (2) upon enactment by the legislature of the
12 State of all laws required by such amendments,

13 but in no event later than the 1st day of the 1st calendar
14 quarter beginning after the close of the 1st regular session
15 of the State legislature that begins after the date of the
16 enactment of this Act. For purposes of the preceding sen-
17 tence, in the case of a State that has a 2-year legislative
18 session, each year of such session shall be deemed to be
19 a separate regular session of the State legislature.

20 **SEC. 13242. ENFORCEMENT OF HEALTH INSURANCE SUP-**
21 **PORT.**

22 (a) STATE PLAN REQUIREMENTS.—Section 454(a)
23 (42 U.S.C. 654(a)) is amended—

24 (1) by striking “and” at the end of paragraph
25 (23);

1 (2) by striking the period at the end of para-
2 graph (24) and inserting “; and”; and

3 (3) by inserting after paragraph (24) the fol-
4 lowing:

5 “(25) provide assurances satisfactory to the
6 Secretary that the State has in effect laws applicable
7 to health insurers and insurance policies or pro-
8 grams subject to the laws of the State that—

9 “(A) prohibit insurers’ consideration, in
10 determining an individual’s eligibility for or cov-
11 erage under any such policy or program, of
12 such individual’s eligibility for or coverage
13 under the plan of any State under title XIX;

14 “(B) provide that, where an individual as-
15 signs rights to any State in accordance with
16 section 1912, that State is subrogated, to the
17 extent of medical assistance furnished, to the
18 individual’s rights under any health insurance
19 policy or program;

20 “(C) prohibit insurers from applying, to
21 State agencies administering programs under
22 title XIX and acting as agents or subrogees (for
23 purposes of insurance policies or programs of
24 such insurers) of individuals receiving medical
25 assistance under such State programs, require-

1 ments (with respect to deadlines for filing
2 claims or any other matters) different from re-
3 quirements applicable to any other applicant,
4 beneficiary, agent, or subrogee;

5 “(D) prohibit insurers from denying enroll-
6 ment of a child under the health insurance cov-
7 erage of the child’s parent on grounds that—

8 “(i) the child does not reside with the
9 parent, or

10 “(ii) the child was born out of wed-
11 lock;

12 “(E) in any case where a parent is re-
13 quired by court or administrative order to pro-
14 vide health insurance coverage for a child, re-
15 quire insurers, without regard to otherwise ap-
16 plicable enrollment season restrictions—

17 “(i) to permit such parent, upon ap-
18 plication, to enroll in family coverage (if
19 otherwise eligible and not already so en-
20 rolled), and to enroll such child under such
21 family coverage, and

22 “(ii) where such a parent who is en-
23 rolled in family coverage fails to make ap-
24 plication, to enroll such child under such
25 family coverage upon application by the

1 child's other parent or by the State agency
2 administering the program under this part
3 or title XIX; and

4 “(F) in any case where a child is covered
5 under the health insurance of a noncustodial
6 parent, require insurers—

7 “(i) to permit the custodial parent (or
8 service provider, with the custodial par-
9 ent's approval), or any State agency ad-
10 ministering a program under title XIX, to
11 submit claims for covered services without
12 the approval of the noncustodial parent,
13 and

14 “(ii) to make payment on claims sub-
15 mitted in accordance with clause (i) di-
16 rectly to the custodial parent, service pro-
17 vider, or State agency submitting such
18 claim;

19 “(26) provide assurances satisfactory to the
20 Secretary that the State has in effect laws requiring
21 employers doing business in the State—

22 “(A) upon notice of a court or administra-
23 tive order requiring an employee to provide
24 health insurance coverage for the employee's
25 child, and upon application by such employee

1 (or, where such employee fails to make applica-
2 tion, by the child's other parent or the State
3 agency administering the program under this
4 part or title XIX), to permit enrollment of such
5 child at any time as a dependent of the em-
6 ployee under the employer's group health insur-
7 ance;

8 “(B) to permit disenrollment from such
9 group health insurance by such employee, or
10 elimination of coverage of such child, only upon
11 receipt of satisfactory evidence, in writing,
12 that—

13 “(i) such court or administrative
14 order is no longer in effect, or

15 “(ii) the employee has enrolled or will
16 enroll in alternative health insurance cover-
17 ing such child which will take effect imme-
18 diately upon the effective date of such
19 disenrollment; and

20 “(C) to withhold from such employee's
21 compensation the employee's share (if any) of
22 premiums for such health insurance, and to pay
23 such share of premiums to the insurer;

24 “(27) provide assurances satisfactory to the
25 Secretary that the State has in effect laws requiring

1 the State agency to garnish the wages, salary, or
2 other employment income of, and to withhold
3 amounts from State tax refunds to, any person
4 who—

5 “(A) is required by court or administrative
6 order to provide coverage of the costs of medi-
7 cal services to an individual eligible for medical
8 assistance under title XIX,

9 “(B) has received payment from a third
10 party for the costs of medical services to such
11 individual, and

12 “(C) has not used such payments to reim-
13 burse, as appropriate, either such individual or
14 the provider of such services,

15 to the extent necessary to reimburse the State agen-
16 cy for expenditures for such costs under its plan
17 under title XIX, but any claims for current or past-
18 due child support shall take priority over any such
19 claims for the costs of medical services.”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 subsection (a) apply to calendar quarters beginning
23 on or after April 1, 1994, except as provided in
24 paragraph (2).

1 (2) EXTENSION FOR STATE LAW AMEND-
2 MENT.—In the case of a State plan under part D of
3 title IV of the Social Security Act which the Sec-
4 retary of Health and Human Services determines re-
5 quires State legislation in order for the plan to meet
6 the additional requirements imposed by the amend-
7 ments made by subsection (a), the State plan shall
8 not be regarded as failing to comply with the re-
9 quirements of such title solely on the basis of its
10 failure to meet these additional requirements before
11 the 1st day of the 1st calendar quarter beginning
12 after the close of the 1st regular session of the State
13 legislature that begins after the date of enactment of
14 this Act. For purposes of the preceding sentence, in
15 the case of a State that has a 2-year legislative ses-
16 sion, each year of such session shall be deemed to
17 be a separate regular session of the State legislature.

18 **SEC. 13243. REPORTS TO CREDIT BUREAUS ON PERSONS**

19 **DELINQUENT IN CHILD SUPPORT PAYMENTS.**

20 (a) IN GENERAL.—Section 466(a)(7) (42 U.S.C.
21 666(a)(7)) is amended—

22 (1) by striking “upon the request of such agen-
23 cy” and inserting “, and procedures which require
24 the State to periodically report to any such agency
25 the name of any parent who owes overdue support

1 and is at least 2 months delinquent in the payment
2 of such support and the amount of such delinquency
3 unless the agency requests not to receive such infor-
4 mation”; and

5 (2) by striking “(C) a fee” and all that follows
6 through “by the State” and inserting “, and (C)
7 such information shall not be made available to (i)
8 a consumer reporting agency which the State deter-
9 mines does not have sufficient capability to system-
10 atically and timely make accurate use of such infor-
11 mation, or (ii) an entity which has not furnished evi-
12 dence satisfactory to the State that the entity is a
13 consumer reporting agency”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by subsection (a)
17 shall take effect on October 1, 1994.

18 (2) EXCEPTION.—If the Secretary of Health
19 and Human Services determines that a State is un-
20 able to comply with the amendments made by sub-
21 section (a), such State shall be exempt from compli-
22 ance with such amendments until the State estab-
23 lishes an automated data processing and information
24 retrieval system under section 454(24) of the Social

1 Security Act, or October 1, 1995, whichever occurs
2 earlier.

3 **CHAPTER 3—SUPPLEMENTAL SECURITY**
4 **INCOME**

5 **SEC. 13251. FEES FOR FEDERAL ADMINISTRATION OF**
6 **STATE SUPPLEMENTARY PAYMENTS.**

7 (a) IN GENERAL.—

8 (1) OPTIONAL STATE SUPPLEMENTARY PAY-
9 MENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is
10 amended—

11 (A) by inserting “(1)” after “(d)”;

12 (B) by inserting “, plus an administration
13 fee assessed in accordance with paragraph (2)
14 and any additional services fee charged in ac-
15 cordance with paragraph (3)” before the period;
16 and

17 (C) by adding after and below the end the
18 following:

19 “(2)(A) The Secretary shall assess each State an ad-
20 ministration fee in an amount equal to—

21 “(i) the number of supplementary payments
22 made by the Secretary on behalf of the State under
23 this section for any month in a fiscal year; multi-
24 plied by

25 “(ii) the applicable rate for the fiscal year.

1 “(B) As used in subparagraph (A), the term ‘applica-
2 ble rate’ means—

3 “(i) for fiscal year 1994, \$1.67;

4 “(ii) for fiscal year 1995, \$3.33;

5 “(iii) for fiscal year 1996, \$5.00; and

6 “(iv) for fiscal year 1997 and each succeeding
7 fiscal year, \$5.00, or such different rate as the Sec-
8 retary determines pursuant to criteria established in
9 regulations is appropriate for the State, taking into
10 account the complexity of the State’s supplementary
11 payment program.

12 “(C) All fees collected pursuant to this paragraph
13 shall be transferred to the United States at the same time
14 that amounts for such supplementary payments are re-
15 quired to be so transferred.

16 “(3)(A) The Secretary shall charge a State an addi-
17 tional services fee if, at the request of the State, the Sec-
18 retary provides additional services beyond the level cus-
19 tomarily provided, in the administration of State supple-
20 mentary payments pursuant to this section.

21 “(B) The additional services fee shall be in an
22 amount that the Secretary determines is necessary to
23 cover all costs (including indirect costs) incurred by the
24 Federal Government in furnishing the additional services
25 referred to in subparagraph (A).

1 “(C) The additional services fee shall be payable in
2 advance or by way of reimbursement.

3 “(4) All administration fees and additional services
4 fees collected pursuant to this subsection shall be depos-
5 ited in the general fund of the Treasury of the United
6 States as miscellaneous receipts.”.

7 (2) MANDATORY STATE SUPPLEMENTARY PAY-
8 MENTS.—Section 212(b)(3) of Public Law 93–66
9 (42 U.S.C. 1382 note) is amended—

10 (A) by inserting “(A)” after “(3)”;

11 (B) by inserting “, plus an administration
12 fee assessed in accordance with subparagraph
13 (B) and any additional services fee charged in
14 accordance with subparagraph (C)” before the
15 period; and

16 (C) by adding after and below the end the
17 following:

18 “(B)(i) The Secretary shall assess each State an ad-
19 ministration fee in an amount equal to—

20 “(I) the number of supplementary payments
21 made by the Secretary on behalf of the State under
22 this subsection for any month in a fiscal year; multi-
23 plied by

24 “(II) the applicable rate for the fiscal year.

1 “(ii) As used in clause (i), the term ‘applicable rate’
2 means—

3 “(I) for fiscal year 1994, \$1.67;

4 “(II) for fiscal year 1995, \$3.33;

5 “(III) for fiscal year 1996, \$5.00; and

6 “(IV) for fiscal year 1997 and each succeeding
7 fiscal year, \$5.00, or such different rate as the Sec-
8 retary determines pursuant to regulations estab-
9 lished in regulations is appropriate for the State,
10 taking into account the complexity of the State’s
11 supplementary payment program.

12 “(iii) All fees collected pursuant to this subparagraph
13 shall be transferred to the United States at the same time
14 that amounts for such supplementary payments are re-
15 quired to be so transferred.

16 “(C)(i) The Secretary shall charge a State an addi-
17 tional services fee if, at the request of the State, the Sec-
18 retary provides additional services beyond the level cus-
19 tomarily provided, in the administration of State supple-
20 mentary payments pursuant to this subsection.

21 “(ii) The additional services fee shall be in an amount
22 that the Secretary determines is necessary to cover all
23 costs (including indirect costs) incurred by the Federal
24 Government in furnishing the additional services referred
25 to in clause (i).

1 “(iii) The additional services fee shall be payable in
2 advance or by way of reimbursement.

3 “(D) All administration fees and additional services
4 fees collected pursuant to this paragraph shall be depos-
5 ited in the general fund of the Treasury of the United
6 States as miscellaneous receipts.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to supplementary payments made
9 pursuant to section 1616(a) of the Social Security Act or
10 section 212(a) of Public Law 93–66 for any calendar
11 month beginning after September 30, 1993, and to serv-
12 ices furnished after such date, regardless of whether regu-
13 lations to implement such amendments have been promul-
14 gated by such date, or whether any agreement entered into
15 under such section 1616(a) or such section 212(a) has
16 been modified.

17 **SEC. 13252. EXCLUSION FROM INCOME OF STATE RELOCA-**
18 **TION ASSISTANCE.**

19 Section 5035(c) of the Omnibus Budget Reconcili-
20 ation Act of 1990 (42 U.S.C. 1382a note; 104 Stat. 1388–
21 225) is amended—

22 (1) by striking “The amendments made by this
23 section” and inserting “(1) The amendments made
24 by subsection (b)”;

25 (2) by adding at the end the following:

1 “(2) The amendments made by subsection (a) shall
2 apply with respect to benefits for calendar months begin-
3 ning on or after May 1, 1991.”.

4 **SEC. 13253. PREVENTION OF ADVERSE EFFECTS ON ELIGI-**
5 **BILITY FOR, AND AMOUNT OF, BENEFITS**
6 **WHEN SPOUSE OR PARENT OF BENEFICIARY**
7 **IS ABSENT FROM THE HOUSEHOLD DUE TO**
8 **ACTIVE MILITARY SERVICE.**

9 (a) **ABSENT PERSON GENERALLY DEEMED TO BE**
10 **LIVING IN THE HOUSEHOLD.**—Section 1614(f) (42
11 U.S.C. 1382c(f)) is amended by adding at the end the
12 following:

13 “(4) For purposes of paragraphs (1) and (2), a
14 spouse or parent (or spouse of such a parent) who is ab-
15 sent from the household in which the individual lives due
16 solely to a duty assignment as a member of the Armed
17 Forces on active duty shall, in the absence of evidence to
18 the contrary, be deemed to be living in the same household
19 as the individual.”.

20 (b) **EXCLUSION FROM INCOME OF HAZARDOUS DUTY**
21 **PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.**—
22 Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

23 (1) in paragraph (18), by striking “and” the
24 2nd place such term appears;

1 (2) in paragraph (19), by striking the period
2 and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(20) special pay received pursuant to section
5 310 of title 37, United States Code.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the 1st day of the 2nd
8 month that begins after the date of the enactment of this
9 Act.

10 **SEC. 13254. ELIGIBILITY FOR CHILDREN OF ARMED**
11 **FORCES PERSONNEL RESIDING OUTSIDE THE**
12 **UNITED STATES OTHER THAN IN FOREIGN**
13 **COUNTRIES.**

14 (a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42
15 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking “the
16 District of Columbia” and all that follows to the period
17 and inserting “and who, for the month before the parent
18 reported for such assignment, received a benefit under this
19 title”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on October 1, 1993.

1 **SEC. 13255. DEFINITION OF DISABILITY FOR CHILDREN**
2 **UNDER AGE 18 APPLIED TO ALL INDIVIDUALS**
3 **UNDER AGE 18.**

4 (a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C.
5 1382c(a)(3)(A)) is amended by striking “a child” and in-
6 serting “an individual”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to determinations made on or
9 after the date of the enactment of this Act.

10 **SEC. 13256. VALUATION OF CERTAIN IN-KIND SUPPORT**
11 **AND MAINTENANCE WHEN THERE IS A COST**
12 **OF LIVING ADJUSTMENT IN BENEFITS.**

13 (a) IN GENERAL.—Section 1611(c) (42 U.S.C.
14 1382(c)) is amended—

15 (1) in paragraph (1), by striking “and (5)” and
16 inserting “(5), and (6)”; and

17 (2) by redesignating paragraphs (6) and (7) as
18 paragraphs (7) and (8), respectively; and

19 (3) by inserting after paragraph (5) the follow-
20 ing:

21 “(6) The dollar amount in effect under subsection (b)
22 as a result of any increase in benefits under this title by
23 reason of section 1617 shall be used to determine the value
24 of any in-kind support and maintenance required to be
25 taken into account in determining the benefit payable
26 under this title to an individual (and the eligible spouse,

1 if any, of the individual) for the 1st 2 months for which
2 the increase in benefits applies.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall apply to benefits paid for months after
5 the calendar year 1993.

6 **SEC. 13257. EXCLUSION FROM INCOME OF CERTAIN**
7 **AMOUNTS RECEIVED BY INDIANS FROM IN-**
8 **TERESTS HELD IN TRUST.**

9 (a) IN GENERAL.—Section 8 of the Act of October
10 19, 1973, (25 U.S.C. 1408) is amended by inserting “,
11 and the first \$2,000 per year of income received by indi-
12 vidual Indians that is derived from such interests shall not
13 be considered income,” after “resource”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on January 1, 1993.

16 **CHAPTER 4—AID TO FAMILIES WITH**
17 **DEPENDENT CHILDREN**

18 **SEC. 13261. 50 PERCENT FEDERAL MATCH OF STATE AD-**
19 **MINISTRATIVE COSTS.**

20 (a) IN GENERAL.—Section 403(a)(3) (42 U.S.C.
21 603(a)(3)) is amended by striking “the sum of” and all
22 that follows through the end of subparagraph (D) and in-
23 serting “50 percent of the total amounts expended during
24 such quarter as the Secretary has found necessary for the
25 proper and efficient administration of the State plan (in-

1 cluding any amounts expended by the State to carry out
2 initial evaluations under section 486(a)),”.

3 (b) OPTIONAL USE OF CERTAIN PROCEDURES TO
4 VERIFY IMMIGRATION STATUS OF AFDC APPLICANTS.—
5 Section 1137(d) (42 U.S.C. 1320b-7(d)) is amended—

6 (1) in each of paragraphs (3) and (4)(B)(i), by
7 inserting “(or, in the case of the program specified
8 in subsection (b)(1), may)” after “shall”; and

9 (2) in paragraph (4), by inserting “(if re-
10 quired)” after “verified”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to payments made for calendar quarters
15 beginning on or after April 1, 1994.

16 (2) DELAYED APPLICABILITY TO CERTAIN
17 STATES.—

18 (A) IN GENERAL.—The Secretary of
19 Health and Human Services may delay the ap-
20 plicability to a qualified State of the amend-
21 ments made by subsection (a) until the 1st cal-
22 endar quarter that begins after the close of the
23 1st regular session of the State legislature that
24 begins after the date of the enactment of this
25 section.

1 (B) QUALIFIED STATE DEFINED.—As used
2 in subparagraph (A), the term “qualified State”
3 means a State that meets such criteria as the
4 Secretary shall establish and apply uniformly,
5 including whether the State legislature meets
6 biennially and does not have a regular session
7 scheduled in calendar year 1994.

8 **SEC. 13262. DELAY IN EFFECTIVE DATE OF PENALTY FOR**
9 **FAILURE TO MEET REQUIRED PARTICIPA-**
10 **TION RATE FOR UNEMPLOYED PARENTS IN**
11 **THE JOBS PROGRAM.**

12 Section 403(l)(4)(B) (42 U.S.C. 603(l)(4)(B)) is
13 amended—

14 (1) in clause (i), by striking “1994” and insert-
15 ing “1995”;

16 (2) in clause (ii), by striking “1995” and in-
17 sserting “1996”;

18 (3) in clause (iii), by striking “1996” and in-
19 sserting “1997”; and

20 (4) in clause (iv), by striking “1997 and 1998”
21 and inserting “1998 and 1999”.

22 **SEC. 13263. REPORT TO THE CONGRESS WITH RESPECT TO**
23 **PERFORMANCE STANDARDS IN THE JOBS**
24 **PROGRAM.**

25 Section 487(a) (42 U.S.C. 687(a)) is amended—

- 1 (1) by striking “3” and inserting “4”;
- 2 (2) in paragraph (1), by inserting “criteria for”
3 after “develop”;
- 4 (3) in paragraph (2), by striking “for” and in-
5 serting “with respect to”; and
- 6 (4) in the 2nd sentence, by striking “under this
7 subsection” and inserting “with respect to the pro-
8 gram under this part”.

9 **SEC. 13264. MEASUREMENT AND REPORTING OF WELFARE**
10 **PARTICIPATION.**

11 (a) CONGRESSIONAL POLICY.—The Congress hereby
12 declares that—

13 (1) it is the policy and responsibility of the
14 Federal Government to reduce the rate at which,
15 and the degree to which, families depend on income
16 from welfare programs, and the duration of welfare
17 participation, to assist families toward self-suffi-
18 ciency, and to increase the living standards of low-
19 income families, consistent with other essential na-
20 tional goals;

21 (2) it is the policy of the United States to
22 strengthen families and improve the life prospects of
23 their children, to ensure that children grow up in
24 families that are economically self-sufficient, and to

1 underscore the responsibility of parents to support
2 their children;

3 (3) the Federal Government should help welfare
4 recipients as well as individuals at risk of welfare
5 participation to improve their education and job
6 skills, to obtain access to high quality child care and
7 other necessary support services, and to take such
8 other steps as may assist them to meet their respon-
9 sibilities to become financially independent; and

10 (4) it is the purpose of this section to provide
11 the public with generally accepted measures of wel-
12 fare participation so that the public can track such
13 participation over time and determine whether
14 progress is being made in reducing the rate at
15 which, and the degree to which, families depend on
16 income from welfare programs, and the duration of
17 welfare participation.

18 (b) DEVELOPMENT OF WELFARE PARTICIPATION
19 MEASURES AND PREDICTORS.—

20 (1) IN GENERAL.—The Secretary of Health and
21 Human Services (in this section referred to as the
22 “Secretary”) in consultation with the Secretary of
23 Agriculture shall develop—

24 (A) measures of—

1 (i) the rate at which, and the degree
2 to which, families depend on income from
3 welfare programs; and

4 (ii) the duration of welfare participa-
5 tion; and

6 (B) predictors of welfare participation.

7 (2) INTERIM REPORT.—Not later than 2 years
8 after the date of the enactment of this section, the
9 Secretary shall provide an interim report containing
10 conclusions resulting from such development, to—

11 (A) the Committee on Ways and Means of
12 the House of Representatives;

13 (B) the Committee on Education and
14 Labor of the House of Representatives;

15 (C) the Committee on Agriculture of the
16 House of Representatives;

17 (D) the Committee on Energy and Com-
18 merce of the House of Representatives;

19 (E) the Committee on Finance of the
20 Senate;

21 (F) the Committee on Labor and Human
22 Resources of the Senate; and

23 (G) the Committee on Agriculture, Nutri-
24 tion, and Forestry of the Senate.

1 (c) ADVISORY BOARD ON WELFARE PARTICIPA-
2 TION.—

3 (1) ESTABLISHMENT.—There is established an
4 Advisory Board on Welfare Participation (in this
5 section referred to as the “Board”).

6 (2) COMPOSITION.—The Board shall be com-
7 posed of 12 members with equal numbers to be ap-
8 pointed by the House of Representatives, the Senate,
9 and the President. The Board shall be composed of
10 experts in the fields of welfare research and statis-
11 tical methodology, representatives of State and local
12 welfare agencies, and organizations concerned with
13 welfare issues.

14 (3) VACANCIES.—Any vacancy occurring in the
15 membership of the Board shall be filled in the same
16 manner as the original appointment for the position
17 being vacated. The vacancy shall not affect the
18 power of the remaining members to execute the
19 duties of the Board.

20 (4) DUTIES.—Duties of the Board shall in-
21 clude—

22 (A) providing advice and recommendations
23 to the Secretary on the development of meas-
24 ures of the rate at which, and the degree to
25 which, families depend on income from welfare

1 programs, and the duration of welfare partici-
2 pation; and

3 (B) providing advice on the development
4 and presentation of the report required by sub-
5 section (d).

6 (5) TRAVEL EXPENSES.—Members of the
7 Board shall not be compensated, but shall receive
8 travel expenses, including per diem in lieu of subsist-
9 ence, at rates authorized for employees of agencies
10 under subchapter I of chapter 57 of title 5, United
11 States Code, for each day the member is engaged in
12 the performance of duties away from the home or
13 regular place of business of the member.

14 (6) DETAIL OF FEDERAL EMPLOYEES.—The
15 Secretary shall detail, without reimbursement, any
16 of the personnel of the Department of Health and
17 Human Services to the Board to assist the Board in
18 carrying out its duties. Any detail shall not interrupt
19 or otherwise affect the civil service status or privi-
20 leges of the Federal employee.

21 (7) VOLUNTARY SERVICE.—Notwithstanding
22 section 1342 of title 31, United States Code, the
23 Board may accept the voluntary services provided by
24 a member of the Board.

1 (8) TERMINATION OF BOARD.—The Board shall
2 be terminated at such time as the Secretary deter-
3 mines the duties described in subsection (c)(4) have
4 been completed, but in any case prior to the submis-
5 sion of the 1st report required by subsection (d).

6 (d) ANNUAL WELFARE PARTICIPATION REPORTS.—

7 (1) PREPARATION.—The Secretary shall pre-
8 pare annual reports on welfare participation in the
9 United States.

10 (2) COVERAGE.—The report shall include anal-
11 ysis of families and individuals receiving assistance
12 under means-tested benefit programs, including the
13 program of aid to families with dependent children
14 under part A of title IV of the Social Security Act
15 (42 U.S.C. 601 et seq.), the food stamp program
16 under the Food Stamp Act of 1977 (7 U.S.C. 2011
17 et seq.), and the supplemental security income pro-
18 gram under title XVI of the Social Security Act (42
19 U.S.C. 1381 et seq.), or as general assistance under
20 programs administered by State and local govern-
21 ments.

22 (3) CONTENTS.—Each such report shall set
23 forth, for each means-tested benefit program de-
24 scribed in paragraph (2)—

25 (A) measures of—

1 (i) the rate at which, and the degree
2 to which, families depend on income from
3 welfare programs; and

4 (ii) the duration of welfare participa-
5 tion;

6 (B) trends in the measures;

7 (C) predictors of welfare participation;

8 (D) the causes of welfare participation;

9 (E) patterns of multiple program partici-
10 pation;

11 (F) such other information as the Sec-
12 retary deems relevant; and

13 (G) such recommendations for legislation,
14 which shall not include proposals to reduce eli-
15 gibility levels or impose barriers to program ac-
16 cess, as the Secretary may determine to be nec-
17 essary or desirable to reduce—

18 (i) the rate at which, and the degree
19 to which, families depend on income from
20 welfare programs; and

21 (ii) the duration of welfare participa-
22 tion.

23 (4) SUBMISSION.—The Secretary shall submit
24 such reports not later than 3 years after the date of
25 the enactment of this section, and annually there-

1 after, to the committees specified in subsection
2 (b)(2). Each such report shall be transmitted during
3 the 1st 60 days of each regular session of the
4 Congress.

5 **SEC. 13265. NEW HOPE DEMONSTRATION PROJECT.**

6 (a) IN GENERAL.—The Secretary of Health and
7 Human Services (in this section referred to as the “Sec-
8 retary”) shall provide for a demonstration project for a
9 qualified program to be conducted in Milwaukee, Wiscon-
10 sin, in accordance with this section.

11 (b) PAYMENTS.—For each calendar quarter in which
12 there is a qualified program approved under this sub-
13 section, the Secretary shall pay to the operator of the
14 qualified program, for no more than 20 calendar quarters,
15 an amount equal to the aggregate amount that would oth-
16 erwise have been payable to the State with respect to par-
17 ticipants in the program for such calendar quarter, in the
18 absence of the program, for cash assistance and child care
19 under part A of title IV of the Social Security Act and
20 for administrative expenses related to such assistance. In
21 calculating the amount of such payment, the expenses of
22 the program incurred in evaluating the effects of the pro-
23 gram may be treated as amounts necessary for the proper
24 and efficient administration of the program, for purposes
25 of part A of title IV of such Act.

1 (c) DEMONSTRATION PROJECT DESCRIBED.—For
2 purposes of this section, the term “qualified program”
3 means a program operated—

4 (1) by The New Hope Project, Inc., a private,
5 not-for-profit corporation incorporated under the
6 laws of the State of Wisconsin (in this section re-
7 ferred to as the “operator”), which offers low-income
8 residents of Milwaukee, Wisconsin, employment,
9 wage supplements, child care, health care, and coun-
10 seling and training for job retention or advancement;
11 and

12 (2) in accordance with an application submitted
13 by the operator of the program and approved by the
14 Secretary based on the Secretary’s determination
15 that the application satisfies the requirements of
16 subsection (d).

17 (d) CONTENTS OF APPLICATION.—The operator of
18 the qualified program shall provide, in its application to
19 conduct a demonstration project for the program, that the
20 following terms and conditions will be met:

21 (1) The operator will develop and implement an
22 evaluation plan designed to provide reliable informa-
23 tion on the impact and implementation of the pro-
24 gram. The evaluation plan will include adequately

1 sized groups of project participants and control
2 groups assigned at random.

3 (2) The operator will develop and implement a
4 plan addressing the services and assistance to be
5 provided by the program, the timing and determina-
6 tion of payments from the Secretary to the operator
7 of the program, and the roles and responsibilities of
8 the Secretary and the operator with respect to meet-
9 ing the requirements of this paragraph.

10 (3) The operator will specify a methodology for
11 determining expenditures to be paid to the operator
12 by the Secretary, with assistance from the Secretary
13 in calculating the amount that would otherwise have
14 been payable to the State in the absence of the pro-
15 gram, pursuant to subsection (b).

16 (4) The operator will issue an interim and final
17 report on the results of the evaluation described in
18 paragraph (1) to the Secretary at such times as
19 required by the Secretary.

20 (e) EFFECTIVE DATE.—This section shall take effect
21 on the 1st day of the 1st calendar quarter that begins
22 after the date of enactment of this Act.

1 **SEC. 13266. DELAY IN REQUIREMENT THAT OUTLYING**
2 **AREAS OPERATE AN AFDC-UP PROGRAM.**

3 Section 401(g)(2) of the Family Support Act of 1988
4 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by strik-
5 ing “October 1, 1992” and inserting “the date of the re-
6 peal of the limitations contained in section 1108(a) of the
7 Social Security Act on payments to such jurisdictions for
8 purposes of making maintenance payments under parts A
9 and E of title IV of such Act”.

10 **SEC. 13267. ADULT IN FAMILY OR HOUSEHOLD ALLOWED**
11 **TO ATTEST TO CITIZENSHIP STATUS OF FAM-**
12 **ILY OR HOUSEHOLD MEMBERS.**

13 (a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C.
14 1320b-7(d)(1)(A)) is amended—

15 (1) by inserting “(i)” after “(1)(A)”;

16 (2) by inserting “(other than the aid to families
17 with dependent children program under part A of
18 title IV of this Act)” after “any program listed in
19 subsection (b)”;

20 (3) by adding at the end the following:

21 “(ii) The State shall require, as a condition of
22 an individual’s eligibility for benefits under the aid
23 to families with dependent children program under
24 part A of title IV of this Act, a declaration in writ-
25 ing, under penalty of perjury—

1 “(I) in the case of an individual who is an
2 adult member of a family or household applying
3 for or receiving such benefits, by such individ-
4 ual or another adult member of such family or
5 household on such individual’s behalf;

6 “(II) in the case of an individual who is a
7 child, by an adult on the individual’s behalf; or

8 “(III) in the case of an individual born
9 into a family or household receiving such bene-
10 fits, by an adult member of such individual’s
11 family or household on the individual’s behalf
12 no later than the next redetermination of eligi-
13 bility of such family or household following the
14 birth of such individual,

15 stating whether the individual is a citizen or national
16 of the United States, and, if that individual is not
17 a citizen or national of the United States, that the
18 individual is in a satisfactory immigration status.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall become effective with respect to bene-
21 fits provided on or after October 1, 1993.

1 **SEC. 13268. INCREASE IN STEPPARENT INCOME DIS-**
2 **REGARD.**

3 (a) IN GENERAL.—Section 402(a)(31) (42 U.S.C.
4 602(a)(31)) is amended by striking “\$75” and inserting
5 “\$90”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall take effect on October 1, 1993, and
8 shall apply to payments under part A of title IV of the
9 Social Security Act for fiscal year 1994 and such pay-
10 ments for succeeding fiscal years.

11 **SEC. 13269. EXTENSION OF NEW YORK STATE CHILD SUP-**
12 **PORT DEMONSTRATION PROGRAM.**

13 Section 9122(g)(1) of the Omnibus Budget Reconcili-
14 ation Act of 1987 (42 U.S.C. 602 note; 101 Stat. 1330–
15 312) is amended by striking “five” and inserting “10”.

16 **SEC. 13270. EARLY CHILDHOOD DEVELOPMENT PROJECTS.**

17 Section 501(a) of the Family Support Act of 1988
18 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by add-
19 ing at the end the following:

20 “(4) For grants to States to conduct demonstration
21 projects under this subsection, there are authorized to be
22 appropriated not to exceed \$3,000,000 for each of the
23 fiscal years 1994 through 1998.”.

1 **CHAPTER 5—UNEMPLOYMENT**
2 **INSURANCE**

3 **SEC. 13271. TREATMENT OF SHORT-TIME COMPENSATION**
4 **PROGRAMS.**

5 (a) **GENERAL RULE.**—Section 3306 of the Internal
6 Revenue Code of 1986 is amended by adding at the end
7 thereof the following new subsection:

8 “(t) **SHORT-TIME COMPENSATION PROGRAM.**—For
9 purposes of this chapter, the term ‘short-time compensa-
10 tion program’ means a program under which—

11 “(1) individuals whose workweeks have been re-
12 duced by at least 10 percent are eligible for unem-
13 ployment compensation;

14 “(2) the amount of unemployment compensa-
15 tion payable to any such individual is a pro rata por-
16 tion of the unemployment compensation which would
17 be payable to the individual if the individual were
18 totally unemployed;

19 “(3) eligible employees are not required to meet
20 the availability for work or work search test require-
21 ments while collecting short-time compensation bene-
22 fits, but are required to be available for their normal
23 workweek;

24 “(4) eligible employees may participate in an
25 employer-sponsored training program to enhance

1 jobs skills if such program has been approved by the
2 State agency;

3 “(5) there is a reduction in the number of
4 hours worked by employees in lieu of temporary
5 layoffs;

6 “(6) there is a plan of an employer (or an em-
7 ployers association which is party to a collective bar-
8 gaining agreement) approved by the State agency
9 consisting of factors in this subsection or other fac-
10 tors as the Secretary of Labor may find relevant;
11 and

12 “(7) the employer continues to provide health
13 benefits and pension benefits under a pension plan
14 (as defined in section 3(35) of the Employee Retire-
15 ment Income Security Act of 1974) to any employee
16 whose workweek is reduced under such plan.

17 A short-time compensation program may also contain such
18 other factors as the Secretary of Labor finds relevant.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subparagraph (E) of section 3304(a)(4) of
21 such Code is amended to read as follows:

22 “(E) amounts may be withdrawn for the
23 payment of short-time compensation under a
24 short-time compensation program approved by
25 the Secretary of Labor:”.

1 (2) Paragraph (4) of section 3306(f) of such
2 Code is amended to read as follows:

3 “(4) amounts may be withdrawn for the pay-
4 ment of short-time compensation under a short-time
5 compensation program approved by the Secretary of
6 Labor.”.

7 (3) Section 303(a)(5) of the Social Security Act
8 is amended by striking “the payment of short-time
9 compensation under a plan approved by the Sec-
10 retary of Labor” and inserting “the payment of
11 short-time compensation under a short-time com-
12 pensation program (as defined in section 3306(t) of
13 the Internal Revenue Code of 1986) approved by the
14 Secretary of Labor”.

15 **SEC. 13272. TECHNICAL AMENDMENT TO UNEMPLOYMENT**
16 **TRUST FUND.**

17 Paragraph (1) of section 905(b) of the Social Secu-
18 rity Act is amended to read as follows:

19 “(b)(1) Except as provided in paragraph (3), the Sec-
20 retary of the Treasury shall transfer (as of the close of
21 each month), from the employment security administra-
22 tion account to the extended unemployment compensation
23 account established by subsection (a), an amount equal to
24 20 percent of the amount by which—

1 “(A) the transfers to such account pursuant to
2 section 901(b)(2) during such month, exceed

3 “(B) the payments during such month from the
4 employment security administration account pursu-
5 ant to section 901(b)(3) and (d).

6 If for any month the payments referred to in subpara-
7 graph (B) exceed the transfers referred to in subpara-
8 graph (A), proper adjustments shall be made in the
9 amounts subsequently transferred.”.

10 **SEC. 13273. EXTENSION OF REPORTING DATE FOR ADVI-**
11 **SORY COUNCIL.**

12 In the case of the first Advisory Council on Unem-
13 ployment Compensation established under section 908 of
14 the Social Security Act, subsection (f) of such section 908
15 shall be applied—

16 (1) by substituting “3rd year” for “2d year” in
17 paragraph (1), and

18 (2) by substituting “February 1, 1995” for
19 “February 1, 1994” in paragraph (2).

20 **SEC. 13274. CLARIFICATION OF EMERGENCY UNEMPLOY-**
21 **MENT BENEFITS PROVISIONS.**

22 (a) IN GENERAL.—Subclauses (II) and (III) of sec-
23 tion 102(b)(2)(A)(v) of the Emergency Unemployment
24 Compensation Act of 1991 are amended to read as follows:

1 “(II) The requirements of this
2 subclause are met for any week if the
3 national rate of total unemployment
4 (seasonally adjusted) for each of the 2
5 most recent calendar months (not
6 averaged) for which data are pub-
7 lished before the close of such week is
8 less than 7 percent, and if the re-
9 quirements of subclause (III) are not
10 met for such week.

11 “(III) The requirements of this
12 subclause are met for any week if the
13 national rate of total unemployment
14 (seasonally adjusted) for each of the 2
15 most recent calendar months (not
16 averaged) for which data are pub-
17 lished before the close of such week is
18 less than 6.8 percent.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply as if included in the amend-
21 ments made by section 101(b) of the Unemployment Com-
22 pensation Amendments of 1992.

1 **SEC. 13275. MODIFICATIONS TO EXTENDED UNEMPLOY-**
2 **MENT PROGRAM.**

3 (a) INCREASE IN REIMBURSEMENT RATE.—Sub-
4 section (a) of section 204 of the Federal-State Extended
5 Unemployment Compensation Act of 1970 is amended by
6 striking “one-half” and inserting “75 percent”.

7 (b) REPEAL OF SPECIAL ELIGIBILITY REQUIRE-
8 MENTS.—Subsection (a) of section 202 of such Act is
9 amended—

10 (1) by striking paragraphs (3), (4), and (7),

11 (2) by redesignating paragraphs (5) and (6) as
12 paragraphs (3) and (4), respectively, and

13 (3) by striking “paragraphs (3), (4), and (5)”
14 in paragraph (4) (as redesignated by paragraph (1)
15 of this subsection) and inserting “paragraph (3)”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to weeks beginning after Oc-
19 tober 2, 1993.

20 (2) SPECIAL RULE.—In the case of any State
21 the legislature of which has not been in session for
22 at least 30 calendar days (whether or not successive)
23 between the date of the enactment of this Act and
24 October 1, 1993, the amendment made by sub-
25 section (b) shall not be a requirement of the State
26 law of such State before the date 30 calendar days

1 after the 1st day on which such legislature is in ses-
2 sion on or after October 1, 1993.

3 **SEC. 13276. EXTENSION OF CURRENT FEDERAL UNEM-**
4 **PLOYMENT RATE.**

5 Section 3301 of the Internal Revenue Code of 1986
6 is amended—

7 (1) by striking “1996” in paragraph (1) and in-
8 sserting “1998”, and

9 (2) by striking “1997” in paragraph (2) and in-
10 sserting “1999”.

11 **SEC. 13277. DISCLOSURE OF INFORMATION TO RAILROAD**
12 **RETIREMENT BOARD.**

13 Section 6103(l)(1)(C) of the Internal Revenue Code
14 of 1986 is amended to read as follows:

15 “(C) taxes imposed by chapters 22 and
16 23A, to the Railroad Retirement Board for pur-
17 poses of its administration of the Railroad Re-
18 tirement and Railroad Unemployment Insur-
19 ance Acts.”.

1 **CHAPTER 6—TECHNICAL PROVISIONS**

2 **SEC. 13281. CORRECTIONS RELATED TO THE INCOME SE-**
3 **CURITY AND HUMAN RESOURCES PROVI-**
4 **SIONS OF THE OMNIBUS BUDGET RECONCILI-**
5 **ATION ACT OF 1990.**

6 (a) AMENDMENT RELATED TO SECTION
7 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget
8 Reconciliation Act of 1990 (Public Law 101–508) is
9 amended by striking “a semicolon” and inserting
10 “‘; and’”.

11 (b) REPEAL OF PROVISION INADVERTENTLY IN-
12 CLUDED.—Section 5057 of the Omnibus Budget Rec-
13 onciliation Act of 1990 (Public Law 101–508), and the
14 amendment made by such section, are hereby repealed,
15 and section 1139(d) of the Social Security Act shall be
16 applied and administered as if such section 5057 had
17 never been enacted.

18 (c) AMENDMENT RELATED TO SECTION
19 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus
20 Budget Reconciliation Act of 1990 (Public Law 101–508;
21 104 Stat. 1388–266) is amended to read as follows:

22 “(B) TITLE XVI.—Section 1631(a)(2)(F)
23 (42 U.S.C. 1383(a)(2)(F)), as so redesignated
24 by subsection (c)(2) of this section, is amended
25 to read as follows:

1 “(F) The Secretary shall include as a part of the
2 annual report required under section 704 information with
3 respect to the implementation of the preceding provisions
4 of this paragraph, including—

5 “(i) the number of cases in which the rep-
6 resentative payee was changed;

7 “(ii) the number of cases discovered where
8 there has been a misuse of funds;

9 “(iii) how any such cases were dealt with by
10 the Secretary;

11 “(iv) the final disposition of such cases (in-
12 cluding any criminal penalties imposed); and

13 “(v) such other information as the Secretary
14 determines to be appropriate.’”.

15 (d) AMENDMENT RELATED TO SECTION
16 5105(a)(1)(B).—The 2nd paragraph of section 1631(a)
17 (42 U.S.C. 1383(a)) is amended by striking “(A)(i) Pay-
18 ments” and inserting “(2)(A)(i) Payments”.

19 (e) AMENDMENTS RELATED TO SECTION 5105(b).—
20 Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is
21 amended—

22 (1) by striking clause (ii);

23 (2) by redesignating clauses (iii), (iv), and (v)
24 as clauses (ii), (iii), and (iv), respectively; and

1 (3) in clause (iv) (as so redesignated), by strik-
2 ing “(iii), and (iv)” and inserting “and (iii)”.

3 (f) AMENDMENTS RELATED TO SECTION
4 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C.
5 1383(c)(1)(B)) is amended by striking “paragraph (1)”
6 each place such term appears and inserting “subpara-
7 graph (A)”.

8 (g) AMENDMENT RELATED TO SECTION
9 5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended
10 by redesignating the subsection (n) added by section
11 5109(a)(2) of the Omnibus Budget Reconciliation Act of
12 1990, as subsection (o).

13 (h) AMENDMENTS RELATED TO SECTION
14 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budg-
15 et Reconciliation Act of 1990 (Public Law 101–508) is
16 amended—

17 (1) in subparagraph (A), by striking “para-
18 graph (8)” and inserting “paragraph (9)”;

19 (2) in subparagraph (B), by striking “para-
20 graph (9)” and inserting “paragraph (10)”; and

21 (3) in subparagraph (C), by redesignating the
22 new paragraph added thereby as paragraph (11).

23 (i) AMENDMENT RELATED TO SECTION
24 13101(d)(2).—Section 256(k)(2)(A) of the Balanced

1 Budget and Emergency Deficit Control Act of 1985 is
2 amended—

3 (1) by striking “—” the 2nd place it appears
4 and all that follows through “(I)”;

5 (2) by striking “; or” and all that follows
6 through “(II)” and inserting “, except that a State
7 may not be allotted an amount under this subpara-
8 graph that exceeds”.

9 (j) EFFECTIVE DATE.—Each amendment made by
10 this section shall take effect as if included in the provision
11 of the Omnibus Budget Reconciliation Act of 1990 to
12 which the amendment relates at the time such provision
13 became law.

14 **SEC. 13282. TECHNICAL CORRECTIONS RELATED TO THE**
15 **HUMAN RESOURCE AND INCOME SECURITY**
16 **PROVISIONS OF THE OMNIBUS BUDGET REC-**
17 **ONCILIATION ACT OF 1989.**

18 (a) AMENDMENT RELATING TO SECTION 8004(a).—
19 Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is
20 amended by striking “a fiscal” and inserting “the fiscal”.

21 (b) AMENDMENT RELATING TO SECTION 8006(a).—
22 Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amend-
23 ed by striking “474(a)(3)(B)” and inserting
24 “474(a)(3)(C)”.

1 (c) AMENDMENT RELATING TO SECTION
2 8007(b)(3).—Subparagraph (D) of section 475(5) (42
3 U.S.C. 675(5)(D)) is amended by moving such subpara-
4 graph 2 ems to the right so that the left margin of such
5 subparagraph is aligned with the left margin of subpara-
6 graph (C) of such section.

7 (d) EFFECTIVE DATE.—Each amendment made by
8 this section shall take effect as if the amendment had been
9 included in the provision of the Omnibus Budget Rec-
10 onciliation Act of 1989 to which the amendment relates,
11 at the time the provision became law.

12 **SEC. 13283. ELIMINATION OF OBSOLETE PROVISIONS RE-**
13 **LATING TO TREATMENT OF THE EARNED IN-**
14 **COME TAX CREDIT.**

15 (a) TREATMENT OF EITC AS EARNED INCOME.—
16 Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended
17 by striking subparagraph (C) and by redesignating sub-
18 paragraphs (D) and (E) as subparagraphs (C) and (D),
19 respectively.

20 (b) ADJUSTMENT OF BENEFITS DUE TO TREAT-
21 MENT OF EITC AS EARNED INCOME.—Section 1631(b)
22 (42 U.S.C. 1383(b)) is amended by striking paragraph (3)
23 and by redesignating paragraphs (4) and (5) as para-
24 graphs (3) and (4), respectively.

1 **SEC. 13284. REDESIGNATION OF CERTAIN PROVISIONS.**

2 Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amend-
3 ed by redesignating subparagraphs (1) and (2) as sub-
4 paragraphs (A) and (B), respectively.

5 **Subtitle C—Medicare Program**

6 **SEC. 13400. REFERENCES IN SUBTITLE; TABLE OF CON-**
7 **TENTS OF SUBTITLE.**

8 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
9 cept as otherwise specifically provided, whenever in this
10 subtitle an amendment is expressed in terms of an amend-
11 ment to or repeal of a section or other provision, the ref-
12 erence shall be considered to be made to that section or
13 other provision of the Social Security Act.

14 (b) REFERENCES TO OBRA.—In this subtitle, the
15 terms “OBRA-1986”, “OBRA-1987”, “OBRA-1989”,
16 and “OBRA-1990” refer to the Omnibus Budget Rec-
17 onciliation Act of 1986 (Public Law 99-509), the Omni-
18 bus Budget Reconciliation Act of 1987 (Public Law 100-
19 203), the Omnibus Budget Reconciliation Act of 1989
20 (Public Law 101-239), and the Omnibus Budget Rec-
21 onciliation Act of 1990 (Public Law 101-508), respec-
22 tively.

23 (c) TABLE OF CONTENTS OF SUBTITLE.—The table
24 of contents of this subtitle is as follows:

Sec. 13400. References in subtitle; table of contents of subtitle.

CHAPTER 1—PROVISIONS RELATING TO PART A

SUBCHAPTER A—ELIMINATION OF INFLATION UPDATE FOR SERVICES
PROVIDED UNDER PART A

- Sec. 13401. Inpatient hospital services and hospice care.
- Sec. 13402. Limits on per diem routine service costs for extended care services.

SUBCHAPTER B—OTHER PROVISIONS RELATING TO PART A

- Sec. 13411. Wage index provisions.
- Sec. 13412. Transition for hospital outlier thresholds.
- Sec. 13413. Essential access community hospital (EACH) amendments.
- Sec. 13414. Rural health transition grant program extension.
- Sec. 13415. Regional referral center extension.
- Sec. 13416. Medicare-dependent, small rural hospital payment extension.
- Sec. 13417. Extension of regional floor.
- Sec. 13418. Extension of rural hospital demonstration.
- Sec. 13419. Hemophilia pass-through extension.
- Sec. 13420. State hospital payment programs.
- Sec. 13421. Psychology services in hospitals.
- Sec. 13422. Graduate medical education payments in hospital-owned community health centers.
- Sec. 13423. Treatment of certain military facilities.
- Sec. 13424. Epilepsy DRG.
- Sec. 13425. Skilled nursing facility wage index.
- Sec. 13426. Hospice notification to beneficiaries.
- Sec. 13427. Reduction in part A premium for certain individuals with 30 or more quarters of Social Security coverage.
- Sec. 13428. Periodic updates to salary equivalency guidelines for physical therapy and respiratory therapy services.
- Sec. 13429. Extension of deadline for application for geographic classification for certain reclassified hospitals.
- Sec. 13430. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

CHAPTER 2—PROVISIONS RELATING TO PART B

SUBCHAPTER A—ELIMINATION OF INFLATION UPDATE

- Sec. 13431. Elimination of inflation update for physician and related professional services.
- Sec. 13432. Elimination of cost-of-living adjustments for certain items and services.
- Sec. 13433. Ambulatory surgical center services.
- Sec. 13434. Other items and services under part B.

SUBCHAPTER B—PHYSICIANS' SERVICES

- Sec. 13441. Reinstating separate payment for the interpretation of electrocardiograms (EKGs).
- Sec. 13442. Payments for new physicians and practitioners.
- Sec. 13443. Retaining payment for actual anesthesia time.
- Sec. 13444. Geographic cost of practice index refinements.
- Sec. 13445. Extra-billing.
- Sec. 13446. Relative values for pediatric services.
- Sec. 13447. Antigens under physician fee schedule.
- Sec. 13448. Administration of claims relating to physicians' services.
- Sec. 13449. Miscellaneous and technical corrections.

SUBCHAPTER C—AMBULATORY SURGICAL CENTER SERVICES

- Sec. 13451. Designation of certain hospitals as eye or eye and ear hospitals.
- Sec. 13452. Treatment of intraocular lenses.
- Sec. 13453. Technical amendments.

SUBCHAPTER D—DURABLE MEDICAL EQUIPMENT

- Sec. 13461. Certification of suppliers.
- Sec. 13462. Prohibition against carrier forum shopping.
- Sec. 13463. Restrictions on certain marketing and sales activities.
- Sec. 13464. Anti-kickback clarification.
- Sec. 13465. Limitations on beneficiary liability for noncovered services.
- Sec. 13466. Adjustments for inherent reasonableness.
- Sec. 13467. Treatment of nebulizers and aspirators.
- Sec. 13468. Payment for ostomy supplies and other supplies.
- Sec. 13469. Miscellaneous and technical corrections.

SUBCHAPTER E—OTHER PROVISIONS

- Sec. 13471. Clarifying payments for medically directed certified registered nurse anesthetist services.
- Sec. 13472. Extension of Alzheimer's disease demonstration projects.
- Sec. 13473. Oral cancer drugs.
- Sec. 13474. Part B premium for late enrollment.
- Sec. 13475. Coverage of services of speech-language pathologists and audiologists.
- Sec. 13476. Extension of municipal health service demonstration projects.
- Sec. 13477. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
- Sec. 13478. Miscellaneous and technical corrections.

SUBCHAPTER F—PART B PREMIUM

- Sec. 13481. Part B premium.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—ELIMINATION OF UPDATES

- Sec. 13501. Elimination of cost-of-living update in per resident amounts for direct medical education.
- Sec. 13502. Elimination of inflation update in cost limits for home health services.

SUBCHAPTER B—MEDICARE SECONDARY PAYER PROVISIONS

- Sec. 13511. Extension of transfer of data.
- Sec. 13512. 3-year extension of medicare secondary payer to disabled beneficiaries.
- Sec. 13513. 3-year extension of 18-month rule for ESRD beneficiaries.
- Sec. 13514. Medicare secondary payer reforms.

SUBCHAPTER C—PHYSICIAN OWNERSHIP AND REFERRAL

- Sec. 13521. Application of medicare ban on self-referrals to all payers.
- Sec. 13522. Extension of self-referral ban to additional specified services.
- Sec. 13523. Exceptions for both ownership and compensation arrangements.
- Sec. 13524. Exceptions related only to ownership or investment.

- Sec. 13525. Exceptions related only to compensation arrangements.
- Sec. 13526. Clarification concerning civil money penalty sanctions.
- Sec. 13527. Requirements for group practice.
- Sec. 13528. No Federal preemption of more restrictive State laws.
- Sec. 13529. Miscellaneous provisions.
- Sec. 13530. Effective dates.

SUBCHAPTER D—OTHER PROVISIONS

- Sec. 13551. Direct graduate medical education.
- Sec. 13552. Immunosuppressive drug therapy.
- Sec. 13553. Reduction in payments for erythropoietin.
- Sec. 13554. Qualified medicare beneficiary outreach.
- Sec. 13555. Extension of social health maintenance organization demonstrations.
- Sec. 13556. Hospice notification to home health beneficiaries.
- Sec. 13557. Interest payments.
- Sec. 13558. Peer review organizations.
- Sec. 13559. Health maintenance organizations.
- Sec. 13560. Medicare administration budget process.
- Sec. 13561. Other provisions.

CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

- Sec. 13571. Standards for medicare supplemental insurance policies.

1 **CHAPTER 1—PROVISIONS RELATING TO**

2 **PART A**

3 **Subchapter A—Elimination of Inflation**

4 **Update for Services Provided Under Part A**

5 **SEC. 13401. INPATIENT HOSPITAL SERVICES AND HOSPICE**

6 **CARE.**

7 Section 1886(b)(3)(B)(iii) (42 U.S.C.

8 1395ww(b)(3)(B)(iii) is amended—

9 (1) by striking “(iii) For purposes of this sub-

10 paragraph” and inserting “(iii)(I) Except as pro-

11 vided in subclause (II), for purposes of this subpara-

12 graph”, and

13 (2) by adding at the end the following new

14 subclause:

1 “(II) For purposes of this subparagraph and section
2 1814(i)(1)(C)(ii), the ‘market basket percentage increase’,
3 with respect to cost reporting periods and discharges oc-
4 ccurring in fiscal year 1994 or 1995, is 0 percent.”.

5 **SEC. 13402. LIMITS ON PER DIEM ROUTINE SERVICE COSTS**
6 **FOR EXTENDED CARE SERVICES.**

7 The Secretary of Health and Human Services shall
8 not provide for any increase, on the basis of inflation or
9 changes in the cost of goods and services, in the limits
10 on per diem routine service costs for extended care services
11 under section 1888 of the Social Security Act for cost re-
12 porting periods beginning during fiscal year 1994 or fiscal
13 year 1995.

14 **Subchapter B—Other Provisions Relating to**
15 **Part A**

16 **SEC. 13411. WAGE INDEX PROVISIONS.**

17 (a) WAGE INDEX HOLD HARMLESS PROTECTION.—

18 (1) IN GENERAL.—Section 1886(d)(8)(C) (42
19 U.S.C. 1395ww(d)(8)(C)) is amended by adding at
20 the end the following new clause:

21 “(iv) The application of subparagraph (B) or a deci-
22 sion of the Medicare Geographic Classification Review
23 Board or the Secretary under paragraph (1) may not re-
24 sult in a reduction in an urban area’s wage index if—

1 “(I) the urban area has a wage index below the
2 wage index for rural areas in the State in which it
3 is located; or

4 “(II) the urban area is located in a State that
5 is composed of a single urban area.”.

6 (2) NO STANDARDIZED AMOUNT ADJUST-
7 MENT.—The Secretary of Health and Human Serv-
8 ices shall not revise the fiscal year 1992 or fiscal
9 year 1993 standardized amounts pursuant to sub-
10 sections (d)(3)(B) and (d)(8)(D) of section 1886 of
11 the Social Security Act to account for the amend-
12 ment made by paragraph (1).

13 (3) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to discharges occur-
15 ring—

16 (A) on or after October 1, 1991, in the
17 case of hospitals located in an urban area de-
18 scribed in section 1886(d)(8)(C)(iv)(I) of the
19 Social Security Act (as added by paragraph
20 (1)); and

21 (B) on or after the date of the enactment
22 of this Act, in the case of hospitals located in
23 an urban area described in section
24 1886(d)(8)(C)(iv)(II) of the Social Security Act
25 (as added by paragraph (1)).

1 (b) UPDATING STANDARDS FOR TREATING RURAL
2 COUNTIES AS URBAN COUNTIES BASED ON RATES OF
3 COMMUTATION.—

4 (1) IN GENERAL.—Section 1886(d)(8)(B) (42
5 U.S.C. 1395ww(d)(8)(B)) is amended—

6 (A) by striking “standards” each place it
7 appears and inserting “standards most recently
8 used”, and

9 (B) by striking “published in the Federal
10 Register on January 3, 1980”.

11 (2) HOLD HARMLESS FOR COUNTIES CUR-
12 RENTLY TREATED AS URBAN.—Any hospital that is
13 treated as being located in an urban metropolitan
14 statistical area pursuant to section 1886(d)(8)(B) of
15 the Social Security Act as of September 30, 1992,
16 shall continue to be so treated notwithstanding the
17 amendments made by paragraph (1).

18 (3) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall be effective on October 1,
20 1993.

21 (c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—

22 (1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I)
23 (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by
24 inserting “(to the extent the Secretary determines
25 appropriate)” after “taking into account”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect as if included in
3 the enactment of OBRA–1989.

4 **SEC. 13412. TRANSITION FOR HOSPITAL OUTLIER THRESH-**
5 **OLDS.**

6 Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A))
7 is amended—

8 (1) in clause (i), by striking “The Secretary”
9 and inserting “For discharges occurring during fis-
10 cal years ending on or before September 30, 1997,
11 the Secretary”; and

12 (2) by adding at the end the following new
13 clauses:

14 “(v) The Secretary shall provide that—

15 “(I) the day outlier percentage for fiscal year
16 1995 shall be 75 percent of the day outlier percent-
17 age for fiscal year 1994;

18 “(II) the day outlier percentage for fiscal year
19 1996 shall be 50 percent of the day outlier percent-
20 age for fiscal year 1994; and

21 “(III) the day outlier percentage for fiscal year
22 1997 shall be 25 percent of the day outlier percent-
23 age for fiscal year 1994.

24 “(vi) For purposes of this subparagraph, the term
25 ‘day outlier percentage’ means, for a fiscal year, the per-

1 centage of the total additional payments made by the Sec-
2 retary under this subparagraph for discharges in that fis-
3 cal year which are additional payments under clause (i).”.

4 **SEC. 13413. ESSENTIAL ACCESS COMMUNITY HOSPITAL**
5 **(EACH) AMENDMENTS.**

6 (a) INCREASING NUMBER OF PARTICIPATING
7 STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1))
8 is amended by striking “7” and inserting “9”.

9 (b) TREATMENT OF INPATIENT HOSPITAL SERVICES
10 PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

11 (1) IN GENERAL.—Section 1820(f)(1)(F) (42
12 U.S.C. 1395i-4(f)(1)(F)) is amended to read as
13 follows:

14 “(F) subject to paragraph (4), provides not
15 more than 6 inpatient beds (meeting such con-
16 ditions as the Secretary may establish) for pro-
17 viding inpatient care to patients requiring sta-
18 bilization before discharge or transfer to a hos-
19 pital, except that the facility may not provide
20 any inpatient hospital services—

21 “(i) to any patient whose attending
22 physician does not certify that the patient
23 may reasonably be expected to be dis-
24 charged or transferred to a hospital within
25 72 hours of admission to the facility; or

1 “(ii) consisting of surgery or any
2 other service requiring the use of general
3 anesthesia (other than surgical procedures
4 specified by the Secretary under section
5 1833(i)(1)(A)), unless the attending physi-
6 cian certifies that the risk associated with
7 transferring the patient to a hospital for
8 such services outweighs the benefits of
9 transferring the patient to a hospital for
10 such services.”.

11 (2) LIMITATION ON AVERAGE LENGTH OF
12 STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is
13 amended by adding at the end the following new
14 paragraph:

15 “(4) LIMITATION ON AVERAGE LENGTH OF IN-
16 PATIENT STAYS.—The Secretary may terminate a
17 designation of a rural primary care hospital under
18 paragraph (1) if the Secretary finds that the average
19 length of stay for inpatients at the facility during
20 the previous year in which the designation was in ef-
21 fect exceeded 72 hours. In determining the compli-
22 ance of a facility with the requirement of the pre-
23 vious sentence, there shall not be taken into account
24 periods of stay of inpatients in excess of 72 hours
25 to the extent such periods exceed 72 hours because

1 transfer to a hospital is precluded because of inclem-
2 ent weather or other emergency conditions.”.

3 (3) CONFORMING AMENDMENT.—Section
4 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by
5 striking “such services” and all that follows and in-
6 sserting “the individual may reasonably be expected
7 to be discharged or transferred to a hospital within
8 72 hours after admission to the rural primary care
9 hospital.”.

10 (4) GAO REPORTS.—Not later than 2 years
11 after the date of the enactment of this Act, the
12 Comptroller General shall submit reports to Con-
13 gress on—

14 (A) the application of the requirements
15 under section 1820(f) of the Social Security Act
16 (as amended by this subsection) that rural pri-
17 mary care hospitals provide inpatient care only
18 to those individuals whose attending physicians
19 certify may reasonably be expected to be dis-
20 charged within 72 hours after admission and
21 maintain an average length of inpatient stay
22 during a year that does not exceed 72 hours;
23 and

24 (B) the extent to which such requirements
25 have resulted in such hospitals providing inpa-

1 tient care beyond their capabilities or have lim-
2 ited the ability of such hospitals to provide
3 needed services.

4 (c) DESIGNATION OF HOSPITALS.—

5 (1) PERMITTING DESIGNATION OF HOSPITALS
6 LOCATED IN URBAN AREAS.—

7 (A) IN GENERAL.—Section 1820 (42
8 U.S.C. 1395i-4) is amended—

9 (i) by striking paragraph (1) of sub-
10 section (e) and redesignating paragraphs
11 (2) through (6) as paragraphs (1) through
12 (5); and

13 (ii) in subsection (e)(1)(A) (as red-
14 esignated by subparagraph (A))—

15 (I) by striking “is located” and
16 inserting “except in the case of a hos-
17 pital located in an urban area, is lo-
18 cated”,

19 (II) by striking “, (ii)” and in-
20 serting “or (ii)”,

21 (III) by striking “or (iii)” and all
22 that follows through “section,”, and

23 (IV) in subsection (i)(1)(B), by
24 striking “paragraph (3)” and insert-
25 ing “paragraph (2)”.

1 (B) NO CHANGE IN MEDICARE PROSPEC-
2 TIVE PAYMENT.—Section 1886(d)(5)(D) (42
3 U.S.C. 1395ww(d)(5)(D)) is amended—

4 (i) in clause (iii)(III), by inserting “lo-
5 cated in a rural area and” after “that is”,
6 and

7 (ii) in clause (v), by inserting “located
8 in a rural area and” after “in the case of
9 a hospital”.

10 (2) PERMITTING HOSPITALS LOCATED IN AD-
11 JOINING STATES TO PARTICIPATE IN STATE PRO-
12 GRAM.—

13 (A) IN GENERAL.—Section 1820 (42
14 U.S.C. 1395i-4) is amended—

15 (i) by redesignating subsection (k) as
16 subsection (l); and

17 (ii) by inserting after subsection (j)
18 the following new subsection:

19 “(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN
20 PARTICIPATING STATES.—Notwithstanding any other
21 provision of this section—

22 “(1) for purposes of including a hospital or fa-
23 cility as a member institution of a rural health net-
24 work, a State may designate a hospital or facility
25 that is not located in the State as an essential access

1 community hospital or a rural primary care hospital
2 if the hospital or facility is located in an adjoining
3 State and is otherwise eligible for designation as
4 such a hospital;

5 “(2) the Secretary may designate a hospital or
6 facility that is not located in a State receiving a
7 grant under subsection (a)(1) as an essential access
8 community hospital or a rural primary care hospital
9 if the hospital or facility is a member institution of
10 a rural health network of a State receiving a grant
11 under such subsection; and

12 “(3) a hospital or facility designated pursuant
13 to this subsection shall be eligible to receive a grant
14 under subsection (a)(2).”.

15 (B) CONFORMING AMENDMENTS.—(i) Sec-
16 tion 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is
17 amended by striking “paragraph (3)” and in-
18 serting “paragraph (3) or subsection (k)”.

19 (ii) Paragraphs (1)(A) and (2)(A) of sec-
20 tion 1820(i) (42 U.S.C. 1395i-4(i)) are each
21 amended—

22 (I) in clause (i), by striking “(a)(1)”
23 and inserting “(a)(1) (except as provided
24 in subsection (k))”, and

1 (II) in clause (ii), by striking “sub-
2 paragraph (B)” and inserting “subpara-
3 graph (B) or subsection (k)”.

4 (d) SKILLED NURSING SERVICES IN RURAL PRIMARY
5 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-
6 4(f)(3)) is amended by striking “because the facility” and
7 all that follows and inserting the following: “because, at
8 the time the facility applies to the State for designation
9 as a rural primary care hospital, there is in effect an
10 agreement between the facility and the Secretary under
11 section 1883 under which the facility’s inpatient hospital
12 facilities are used for the furnishing of extended care serv-
13 ices, except that the number of beds used for the furnish-
14 ing of such services may not exceed the total number of
15 licensed inpatient beds at the time the facility applies to
16 the State for such designation (minus the number of inpa-
17 tient beds used for providing inpatient care pursuant to
18 paragraph (1)(F)). For purposes of the previous sentence,
19 the number of beds of the facility used for the furnishing
20 of extended care services shall not include any beds of a
21 unit of the facility that is licensed as a distinct-part skilled
22 nursing facility at the time the facility applies to the State
23 for designation as a rural primary care hospital.”.

24 (e) PAYMENT FOR OUTPATIENT RURAL PRIMARY
25 CARE HOSPITAL SERVICES.—

1 (1) IMPLEMENTATION OF PROSPECTIVE PAY-
2 MENT SYSTEM.—Section 1834(g) (42 U.S.C.
3 1395m(g)) is amended—

4 (A) in paragraph (1), by striking “during
5 a year before 1993” and inserting “during a
6 year before the prospective payment system de-
7 scribed in paragraph (2) is in effect”; and

8 (B) in paragraph (2), by striking “January
9 1, 1993,” and inserting “January 1, 1996,”.

10 (2) NO USE OF CUSTOMARY CHARGE IN DETER-
11 MINING PAYMENT.—Section 1834(g)(1) (42 U.S.C.
12 1395m(g)(1)) is amended by adding at the end the
13 following:

14 “The amount of payment shall be determined under
15 either method without regard to the amount of the
16 customary or other charge.”.

17 (f) CLARIFICATION OF PHYSICIAN STAFFING RE-
18 QUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—
19 Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is
20 amended by striking the period and inserting the follow-
21 ing: “, except that in determining whether a facility meets
22 the requirements of this subparagraph, subparagraphs (E)
23 and (F) of that paragraph shall be applied as if any ref-
24 erence to a ‘physician’ is a reference to a physician as de-
25 fined in section 1861(r)(1).”.

1 (g) TECHNICAL AMENDMENTS RELATING TO PART
2 A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILL-
3 NESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1))
4 is amended—

5 (A) by striking “inpatient hospital services” the
6 first place it appears and inserting “inpatient hos-
7 pital services or inpatient rural primary care hos-
8 pital services”;

9 (B) by striking “inpatient hospital services” the
10 second place it appears and inserting “such serv-
11 ices”; and

12 (C) by striking “and inpatient rural primary
13 care hospital services”.

14 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.
15 1395e(a), 1395e(b)(3)(A)) are each amended by striking
16 “inpatient hospital services” each place it appears and in-
17 serting “inpatient hospital services or inpatient rural pri-
18 mary care hospital services”.

19 (3) Section 1813(b)(3)(B) (42 U.S.C.
20 1395e(b)(3)(B)) is amended by striking “inpatient hos-
21 pital services” and inserting “inpatient hospital services,
22 inpatient rural primary care hospital services”.

23 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is amend-
24 ed—

1 (A) in paragraphs (1), by striking “inpatient
2 hospital services” and inserting “inpatient hospital
3 services, inpatient rural primary care hospital serv-
4 ices”; and

5 (B) in paragraph (2), by striking “hospital”
6 and inserting “hospital or rural primary care hos-
7 pital”.

8 (h) AUTHORIZATION OF APPROPRIATIONS.—Section
9 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking
10 “1990, 1991, and 1992” and inserting “1990 through
11 1995”.

12 (i) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act.

15 **SEC. 13414. RURAL HEALTH TRANSITION GRANT PROGRAM**
16 **EXTENSION.**

17 Section 4005(e)(9) of OBRA-1987 is amended—

18 (1) by striking “1989 and” and inserting
19 “1989,”; and

20 (2) by striking “1992” and inserting “1992
21 and \$30,000,000 for each of fiscal years 1993
22 through 1997”.

23 **SEC. 13415. REGIONAL REFERRAL CENTER EXTENSION.**

24 (a) EXTENSION OF CLASSIFICATION THROUGH FIS-
25 CAL YEAR 1994.—Effective on the date of the enactment

1 of this Act, section 6003(d) of such Act (42 U.S.C.
2 1395ww note) is amended by striking “October 1, 1992”
3 and inserting “October 1, 1994”.

4 (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-
5 FICATION.—If any hospital fails to qualify as a rural refer-
6 ral center under section 1886(d)(5)(C) of the Social Secu-
7 rity Act as a result of a decision by the Medicare Geo-
8 graphic Classification Review Board under section
9 1886(d)(10) of such Act to reclassify the hospital as being
10 located in an urban area for fiscal year 1993 or fiscal year
11 1994, the Secretary of Health and Human Services
12 shall—

13 (1) notify such hospital of such failure to
14 qualify,

15 (2) provide an opportunity for such hospital to
16 decline such reclassification, and

17 (3) if the hospital declines such reclassification,
18 administer the Social Security Act (other than sec-
19 tion 1886(d)(8)(D)) for such fiscal year as if the de-
20 cision by the Review Board had not occurred.

21 (c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT
22 FOR HOSPITALS LOSING CLASSIFICATION.—

23 (1) IN GENERAL.—In the case of an affected
24 regional referral center (as described in paragraph
25 (2)), the Secretary of Health and Human Services

1 shall make a lump sum payment to the center equal
2 to the difference between the aggregate payment
3 made to the center under section 1886 of such Act
4 (excluding outlier payments under subsection
5 (d)(5)(A) of such section) during the period of appli-
6 cability described in paragraph (3) and the aggre-
7 gate payment that would have been made to the cen-
8 ter under such section if, during the period of appli-
9 cability, the center was classified a regional referral
10 center under section 1886(d)(5)(C) of such Act.

11 (2) AFFECTED CENTERS DESCRIBED.—In para-
12 graph (1), an “affected regional referral center” is
13 a hospital classified as regional referral center under
14 section 1886(d)(5)(C) of the Social Security Act as
15 of September 30, 1992, that was not classified as
16 such a center after such date but would have been
17 so classified if the reference in section 6003(d) of
18 OBRA–1989 to “October 1, 1992,” had been
19 deemed a reference to “October 1, 1994,”.

20 (3) PERIOD OF APPLICABILITY.—In paragraph
21 (1), the “period of applicability” is the period that
22 begins on October 1, 1992, and ends on the date of
23 the enactment of this Act.

1 **SEC. 13416. MEDICARE-DEPENDENT, SMALL RURAL HOS-**
2 **PITAL PAYMENT EXTENSION.**

3 (a) EXTENSION OF ADDITIONAL PAYMENTS.—Effec-
4 tive on the date of the enactment of this Act, section
5 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amend-
6 ed—

7 (1) in clause (i) in the matter preceding
8 subclause (I)—

9 (A) by inserting “(or portion thereof)”
10 after “cost reporting period”, and

11 (B) by striking “March 31, 1993,” and all
12 that follows and inserting the following: “Sep-
13 tember 30, 1994, in the case of a subsection (d)
14 hospital which is a medicare-dependent, small
15 rural hospital, payment under paragraph (1)(A)
16 shall be equal to the sum of the amount deter-
17 mined under clause (ii) and the amount deter-
18 mined under paragraph (1)(A)(iii).”;

19 (2) by redesignating clauses (ii) and (iii) as
20 clauses (iii) and (iv); and

21 (3) by inserting after clause (i) the following
22 new clause:

23 “(ii) The amount determined under this clause is—

24 “(I) for discharges occurring during the first 3
25 12-month cost reporting periods that begin on or
26 after April 1, 1990, the amount by which the hos-

1 pital’s target amount for the cost reporting period
2 (as defined in subsection (b)(3)(D)) exceeds the
3 amount determined under paragraph (1)(A)(iii); and

4 “(II) for discharges occurring during any subse-
5 quent cost reporting period (or portion thereof), 50
6 percent of the amount by which the hospital’s target
7 amount for the cost reporting period (as defined in
8 subsection (b)(3)(D)) exceeds the amount deter-
9 mined under paragraph (1)(A)(iii).”.

10 (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-
11 FICATION.—If any hospital fails to qualify as a medicare-
12 dependent, small rural hospital under section
13 1886(d)(5)(G)(i) of the Social Security Act as a result of
14 a decision by the Medicare Geographic Classification Re-
15 view Board under section 1886(d)(10) of such Act to re-
16 classify the hospital as being located in an urban area for
17 fiscal year 1993 or fiscal year 1994, the Secretary of
18 Health and Human Services shall—

19 (1) notify such hospital of such failure to
20 qualify,

21 (2) provide an opportunity for such hospital to
22 decline such reclassification, and

23 (3) if the hospital declines such reclassification,
24 administer the Social Security Act (other than sec-

1 tion 1886(d)(8)(D)) for such fiscal year as if the de-
2 cision by the Review Board had not occurred.

3 (c) REQUIRING LUMP-SUM RETROACTIVE PAY-
4 MENT.—

5 (1) IN GENERAL.—In the case of a hospital
6 treated as a medicare dependent, small rural hos-
7 pital under section 1886(d)(5)(G) of the Social Se-
8 curity Act, the Secretary of Health and Human
9 Services shall make a lump sum payment to the hos-
10 pital equal to the difference between the aggregate
11 payment made to the hospital under section 1886 of
12 such Act (excluding outlier payments under sub-
13 section (d)(5)(A) of such section) during the period
14 of applicability described in paragraph (2) and the
15 aggregate payment that would have been made to
16 the hospital under such section if, during the period
17 of applicability, section 1886(d)(5)(G) of such Act
18 had been applied as if—

19 (A) the reference in clause (i) to “March
20 31, 1993,” had been deemed a reference to
21 “September 30, 1994,”; and

22 (B) the amendments made by subsection
23 (a) had been in effect.

24 (2) PERIOD OF APPLICABILITY.—In paragraph
25 (1), the “period of applicability” is, with respect to

1 a hospital, the period that begins on the first day of
2 the hospital's first 12-month cost reporting period
3 that begins after April 1, 1992, and ends on the
4 date of the enactment of this Act.

5 **SEC. 13417. EXTENSION OF REGIONAL FLOOR.**

6 Section 1886(d)(1)(A)(iii) (42 U.S.C.
7 1395ww(d)(1)(A)(iii)) is amended by striking "September
8 30, 1993" and inserting "September 30, 1996".

9 **SEC. 13418. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.**
10

11 Section 4008(i)(1) of OBRA-1990 is amended by
12 adding at the end the following new sentence: "The Sec-
13 retary shall continue any such demonstration project until
14 at least December 31, 1995."

15 **SEC. 13419. HEMOPHILIA PASS-THROUGH EXTENSION.**

16 Effective as if included in the enactment of OBRA-
17 1989, section 6011(d) of such Act is amended by striking
18 "2 years after the date of enactment of this Act" and
19 inserting "September 30, 1994".

20 **SEC. 13420. STATE HOSPITAL PAYMENT PROGRAMS.**

21 In the case of a State hospital reimbursement system
22 that meets the requirements of section 1814(b)(3) of the
23 Social Security Act, no other provision of law shall be con-
24 strued as preventing the system from providing that pay-

1 ment for services covered under the system be made on
2 the basis of rates provided for under the system.

3 **SEC. 13421. PSYCHOLOGY SERVICES IN HOSPITALS.**

4 Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is
5 amended by striking “physician;” and inserting “physi-
6 cian, except that a patient receiving qualified psychologist
7 services (as defined in subsection (ii)) may be under the
8 care of a clinical psychologist with respect to such services
9 to the extent permitted under State law;”.

10 **SEC. 13422. GRADUATE MEDICAL EDUCATION PAYMENTS IN**
11 **HOSPITAL-OWNED COMMUNITY HEALTH CEN-**
12 **TERS.**

13 Section 1886(d)(5)(B)(iv) (42 U.S.C.
14 1395ww(d)(5)(B)(iv)) is amended by inserting after “the
15 hospital” the following: “or providing services at any en-
16 tity receiving a grant under section 330 of the Public
17 Health Service Act that is under the ownership or control
18 of the hospital (if the hospital incurs all, or substantially
19 all, of the costs of the services furnished to the hospital
20 by such interns and residents)”.

21 **SEC. 13423. TREATMENT OF CERTAIN MILITARY FACILI-**
22 **TIES.**

23 (a) COVERAGE OF SERVICES PROVIDED IN CERTAIN
24 UNIFORMED SERVICES TREATMENT FACILITIES.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services may not take any recoupment ac-
3 tion to recover amounts that were paid by the Unit-
4 ed States under title XVIII of the Social Security
5 Act to the facilities described in paragraph (2) (or
6 to other individuals or entities with whom such fa-
7 cilities had entered into agreements to provide serv-
8 ices under such title) for services provided during
9 the period beginning October 1, 1986, and ending
10 December 31, 1989, except to the extent that funds
11 were obligated to the Uniformed Services Treatment
12 Facilities program to fulfill such an action pursuant
13 to title VI of the Department of Defense Appropria-
14 tions Act, 1993.

15 (2) FACILITIES DESCRIBED.—The facilities re-
16 ferred to in paragraph (1) are the hospitals de-
17 scribed in section 248c of title 42, United States
18 Code, that are located in Boston, Massachusetts;
19 Baltimore, Maryland; and Seattle, Washington.

20 (b) STUDY OF JOINT MEDICAL FACILITIES.—

21 (1) STUDY.—The Secretary of Health and
22 Human Services, in consultation with the Secretary
23 of Defense and the Secretary of Veterans Affairs,
24 shall conduct a study of the feasibility and desirabil-
25 ity of establishing joint medical facilities among the

1 Department of Defense, the Department of Veter-
2 ans' Affairs, and other public and private entities,
3 and shall include in such study an analysis of the
4 need to make changes in the medicare and medicaid
5 programs (including facility certification standards
6 under such programs) in order to facilitate the es-
7 tablishment of such joint medical facilities.

8 (2) REPORT.—Not later than October 1, 1993,
9 the Secretary of Health and Human Services shall
10 submit a report to Congress on the study conducted
11 under paragraph (1).

12 **SEC. 13424. EPILEPSY DRG.**

13 (a) IN GENERAL.—The Secretary of Health and
14 Human Services shall review the diagnosis-related groups
15 established pursuant to section 1886(d)(4) of the Social
16 Security Act that are assigned to discharges of patients
17 with intractable epilepsy, including patients whose admis-
18 sions involve intensive neurodiagnostic monitoring, and
19 shall revise, for discharges occurring on or after October
20 1, 1994, the assignment of discharges to such groups as
21 the Secretary considers appropriate to account for the re-
22 source requirements of such patients.

23 (b) CONSULTATION REQUIREMENTS.—In carrying
24 out subsection (a), the Secretary shall consult with the
25 Prospective Payment Assessment Commission and na-

1 tional organizations representing individuals with epilepsy
2 or individuals and entities providing specialized medical
3 services to such individuals related to the treatment of
4 epilepsy.

5 **SEC. 13425. SKILLED NURSING FACILITY WAGE INDEX.**

6 (a) IN GENERAL.—Not later than 1 year after the
7 date of the enactment of this Act, the Secretary of Health
8 and Human Services shall begin to collect data on em-
9 ployee compensation and paid hours of employment in
10 skilled nursing facilities for the purpose of constructing
11 a skilled nursing facility wage index adjustment to the
12 routine service cost limits required under section
13 1888(a)(4) of the Social Security Act.

14 (b) PROPAC REPORT.—The Prospective Payment
15 Assessment Commission shall, by March 1, 1994, study
16 and report to the Congress on the impact of applying rou-
17 tine per diem cost limits for skilled nursing facilities on
18 a regional basis.

19 **SEC. 13426. HOSPICE NOTIFICATION TO BENEFICIARIES.**

20 (a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C.
21 1395x(ee)(2)(D)) is amended by inserting “, including
22 hospice services,” after “post-hospital services”.

23 (b) NURSING FACILITIES.—Section 1819(c)(1)(B)
24 (42 U.S.C. 1395i–3(c)(1)(B)) is amended—

25 (1) by striking “and” at the end of clause (ii);

1 (2) by striking the period at the end of clause
2 (iii) and inserting “; and”; and

3 (3) by inserting after clause (iii) the following
4 new clause:

5 “(iv) inform each resident who is enti-
6 tled to benefits under this title, orally and
7 in writing at the time of admission to the
8 facility, of the entitlement of individuals to
9 hospice care under section 1812(a)(4) (un-
10 less there is no hospice program providing
11 hospice care for which payment may be
12 made under this title within the geographic
13 area of the facility and it is not the com-
14 mon practice of the facility to refer pa-
15 tients to hospice programs located outside
16 such geographic area).”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to services furnished on or after
19 the first day of the first month beginning more than one
20 year after the date of the enactment of this Act.

21 **SEC. 13427. REDUCTION IN PART A PREMIUM FOR CERTAIN**
22 **INDIVIDUALS WITH 30 OR MORE QUARTERS**
23 **OF SOCIAL SECURITY COVERAGE.**

24 (a) IN GENERAL.—Section 1818(d) (42 U.S.C.
25 1395i-2(d)) is amended—

1 (1) in the second sentence of paragraph (2), by
 2 striking “Such amount” and inserting “Subject to
 3 paragraph (4), the amount of an individual’s month-
 4 ly premium under this section”; and

5 (2) by adding at the end the following new
 6 paragraph:

7 “(4)(A) In the case of an individual described in sub-
 8 paragraph (B), the monthly premium for a month shall
 9 be reduced by the applicable reduction percent specified
 10 in the following table:

“For a month in:	The applicable reduction percent is:
1994	25 percent
1995	30 percent
1996	35 percent
1997	40 percent
1998 or subsequent year	45 percent.

11 “(B) An individual described in this subparagraph
 12 with respect to a month is an individual who establishes
 13 to the satisfaction of the Secretary that, as of the last
 14 day of the previous month, the individual—

15 “(i) had at least 30 quarters of coverage under
 16 title II;

17 “(ii) was married (and had been married for
 18 the previous 1 year period) to an individual who had
 19 at least 30 quarters of coverage under such title;

20 “(iii) had been married to an individual for a
 21 period of at least 1 year (at the time of the individ-

1 ual's death) if at such time the individual had at
2 least 30 quarters of coverage under such title; and

3 “(iv) is divorced from an individual and had
4 been married to the individual for a period of at
5 least 10 years (at the time of the divorce) if at such
6 time the individual had at least 30 quarters of cov-
7 erage under such title.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to monthly premiums under section
10 1818 of the Social Security Act for months beginning with
11 January 1, 1994.

12 **SEC. 13428. PERIODIC UPDATES TO SALARY EQUIVALENCY**
13 **GUIDELINES FOR PHYSICAL THERAPY AND**
14 **RESPIRATORY THERAPY SERVICES.**

15 (a) IN GENERAL.—Section 1861(v)(5) (42 U.S.C.
16 1395x(v)(5)) is amended by adding at the end the follow-
17 ing new subparagraph:

18 “(C) Using the most recent available data, the Sec-
19 retary shall update, not less often than every 3 years, the
20 salary equivalency guidelines used under subparagraph
21 (A) with respect to physical therapy and respiratory
22 therapy services.”.

23 (b) EFFECTIVE DATE.—The Secretary of Health and
24 Human Services shall first update the salary equivalency
25 guidelines, under the amendment made by subsection (a),

1 by not later than December 31, 1993. Such updated
2 guidelines shall apply to cost reporting periods beginning
3 on or after July 1, 1993.

4 **SEC. 13429. EXTENSION OF DEADLINE FOR APPLICATION**
5 **FOR GEOGRAPHIC CLASSIFICATION FOR CER-**
6 **TAIN RECLASSIFIED HOSPITALS.**

7 Notwithstanding section 1886(d)(10)(C)(ii) of the
8 Social Security Act, a hospital may submit an application
9 to the Medicare Geographic Classification Review Board
10 requesting a change in geographic classification for fiscal
11 year 1994 after the first day of fiscal year 1993 if—

12 (1) the hospital's geographic classification for
13 fiscal year 1994 was changed from urban to rural as
14 a result of the issuance of the Revised Statistical
15 Definitions for Metropolitan Areas established by
16 the Office of Management and Budget on December
17 28, 1992 (pursuant to OMB Bulletin No. 93-05);
18 and

19 (2) the hospital submits the application not
20 later than 60 days after the date of the enactment
21 of this Act.

1 **SEC. 13430. CLARIFICATION OF DRG PAYMENT WINDOW EX-**
2 **PANSION; MISCELLANEOUS AND TECHNICAL**
3 **CORRECTIONS.**

4 (a) CLARIFICATION OF DRG PAYMENT WINDOW EX-
5 PANSION.—The first sentence of section 1886(a)(4) (42
6 U.S.C. 1395ww(a)(4)) is further amended by striking
7 “and includes” and inserting “and (in the case of a sub-
8 section (d) hospital) includes”.

9 (b) TECHNICAL CORRECTION RELATING TO RESI-
10 DENT ASSESSMENT IN NURSING HOMES.—Section
11 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is
12 amended by striking “not later than” before “14 days”.

13 (c) CLERICAL CORRECTIONS.—(1) Section
14 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended
15 by striking “1990,,” and inserting “1990,”.

16 (2) Section 1816(f)(2)(A)(ii) (42 U.S.C.
17 1396h(f)(2)(A)(ii)) is amended by striking “such agency”
18 and inserting “such agency’s”.

19 (3) Section 1886(d)(1)(A)(iii) (42 U.S.C.
20 1395ww(d)(1)(A)(iii)) is amended by striking “, the sum
21 of” and inserting “is equal to the sum of”.

1 **CHAPTER 2—PROVISIONS RELATING TO**
2 **PART B**
3 **Subchapter A—Elimination of Inflation**
4 **Update**

5 **SEC. 13431. ELIMINATION OF INFLATION UPDATE FOR PHY-**
6 **SICIAN AND RELATED PROFESSIONAL SERV-**
7 **ICES.**

8 (a) NO INCREASE IN INDEX.—Section 1848(d)(3)(A)
9 (42 U.S.C. 1395w-4(d)(3)(A)) is amended—

10 (1) in clause (i), by striking “clause (iii)” and
11 inserting “clauses (iii) and (iv)”, and

12 (2) by adding at the end the following new
13 clause:

14 “(iv) NO INCREASE IN INDEX FOR
15 1994 OR 1995.—In applying clause (i) for
16 services furnished on or after January 1,
17 1994, the percentage increase in the ap-
18 propriate update index for each of 1994
19 and 1995 shall be 0 percent.”.

20 (b) NO INCREASE IN MEI FOR 1994 AND 1995.—Sec-
21 tion 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amend-
22 ed by adding at the end the following new clause:

23 “(vi) For purposes of this part for items and services
24 furnished in 1994 or 1995, the percentage increase in the
25 MEI is 0 percent.”.

1 **SEC. 13432. ELIMINATION OF COST-OF-LIVING ADJUST-**
2 **MENTS FOR CERTAIN ITEMS AND SERVICES.**

3 (a) CLINICAL LABORATORY SERVICES.—Section
4 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is
5 amended—

6 (1) by striking “and” at the end of subclause
7 (II),

8 (2) by striking the period at the end of
9 subclause (III) and inserting “, and”, and

10 (3) by adding at the end the following new
11 subclause:

12 “(IV) the annual adjustment in the fee sched-
13 ules determined under clause (i) for each of the
14 years 1994 and 1995 shall be 0 percent.”.

15 (b) DURABLE MEDICAL EQUIPMENT.—Section
16 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

17 (1) in subparagraph (A), as amended by
18 13469(a), by striking “and” at the end;

19 (2) in subparagraph (B)—

20 (A) by striking “a subsequent year” and
21 inserting “1993”, and

22 (B) by striking “June of the previous
23 year.” and inserting “June 1992,”; and

24 (3) by adding at the end the following new sub-
25 paragraphs:

1 “(C) for 1994 and 1995, no percentage
2 change, and

3 “(D) for a subsequent year, the percentage
4 increase in the consumer price index for all
5 urban consumers (U.S. city average) for the 12-
6 month period ending with June of the previous
7 year.”.

8 (c) ORTHOTICS AND PROSTHETICS.—Section
9 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

10 (1) in clause (i), by striking “and”;

11 (2) in clause (ii), by striking “a subsequent
12 year” and inserting “1992 and 1993”; and

13 (3) by adding at the end the following new
14 clauses:

15 “(iii) for 1994 and 1995, 0 percent,
16 and

17 “(iv) for a subsequent year, the per-
18 centage increase in the consumer price
19 index for all urban consumers (United
20 States city average) for the 12-month pe-
21 riod ending with June of the previous
22 year;”.

23 (d) REASONABLE CHARGE LIMITS FOR ENTERAL
24 AND PARENTERAL NUTRIENTS, SUPPLIES AND EQUIP-
25 MENT.—In determining the amount of payment under

1 part B of title XVIII of the Social Security Act during
2 1994 and 1995, the charges determined to be reasonable
3 with respect to parenteral and enteral nutrients, supplies,
4 and equipment may not exceed the charges determined to
5 be reasonable with respect to such nutrients, supplies, and
6 equipment during 1993.

7 **SEC. 13433. AMBULATORY SURGICAL CENTER SERVICES.**

8 (a) ELIMINATION OF INFLATION UPDATE.—The Sec-
9 retary of Health and Human Services shall not provide
10 for any inflation update in the payment amounts under
11 subparagraphs (A) and (B) of section 1833(i)(2) of the
12 Social Security Act for fiscal year 1994 or for fiscal year
13 1995.

14 (b) CONFORMING AMENDMENT.—Section
15 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)), as added by
16 section 13453(a)(2)(B), is amended by striking “fiscal
17 year 1995” and inserting “fiscal year 1996”.

18 **SEC. 13434. OTHER ITEMS AND SERVICES UNDER PART B.**

19 (a) RURAL HEALTH CLINIC SERVICES; FEDERALLY-
20 QUALIFIED HEALTH CENTER SERVICES; COMPREHEN-
21 SIVE OUTPATIENT REHABILITATION FACILITY SERV-
22 ICES.—In determining the amount of payment made for
23 rural health clinic services, Federally qualified health cen-
24 ter services, or comprehensive outpatient rehabilitation fa-
25 cility services furnished under part B of title XVIII of the

1 Social Security Act for services furnished on or after Jan-
2 uary 1, 1994, the Secretary of Health and Human Serv-
3 ices shall provide that any inflation update, in the applica-
4 ble limits used to determine the costs which are reasonable
5 and related to the cost of furnishing such services under
6 section 1833(a)(3) of such Act, that would otherwise have
7 applied for 1994 or for 1995 shall be deemed to be 0
8 percent.

9 (b) DIALYSIS SERVICES.—In determining the amount
10 of payment made for dialysis services furnished under part
11 B of title XVIII of the Social Security Act on or after
12 January 1, 1994, the Secretary of Health and Human
13 Services shall provide that any inflation update, in the
14 payment amounts determined under section
15 1881(b)(2)(B) of such Act or the rates determined under
16 section 1881(b)(7) of such Act, that would otherwise have
17 applied for 1994 or for 1995 shall be deemed to be 0
18 percent.

19 (c) OTHER PART B ITEMS AND SERVICES.—In deter-
20 mining the amount of payment made for an item or service
21 furnished under part B of title XVIII of the Social Secu-
22 rity Act on or after January 1, 1994, other than an item
23 or service to which a preceding provision of (or amend-
24 ment made by) this subchapter applies, the Secretary of
25 Health and Human Services shall provide that any infla-

1 tion update in the fee schedule amount for the item or
2 service established under such part B of such title, or (if
3 applicable) any applicable limit used to determine the ac-
4 tual charge, reasonable charge, or reasonable cost for the
5 item or service under such part, that would otherwise have
6 applied for 1994 or for 1995 shall be deemed to be 0
7 percent.

8 **Subchapter B—Physicians’ Services**

9 **SEC. 13441. REINSTATING SEPARATE PAYMENT FOR THE** 10 **INTERPRETATION OF ELECTROCARDIO-** 11 **GRAMS (EKGS).**

12 (a) IN GENERAL.—Paragraph (3) of section 1848(b)
13 (42 U.S.C. 1395w-4(b)) is amended to read as follows:

14 “(3) TREATMENT OF INTERPRETATION OF
15 ELECTROCARDIOGRAMS.—The Secretary—

16 “(A) shall make separate payment under
17 this section for the interpretation of electro-
18 cardiograms performed or ordered to be per-
19 formed as part of or in conjunction with a visit
20 to or a consultation with a physician, and

21 “(B) shall adjust the relative values estab-
22 lished for visits and consultations under sub-
23 section (c) so as not to include relative value
24 units for interpretations of electrocardiograms

1 in the relative value for visits and consulta-
2 tions.”.

3 (b) ASSURING BUDGET NEUTRALITY.—Section
4 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by add-
5 ing at the end the following new subparagraph:

6 “(E) BUDGET NEUTRALITY ADJUST-
7 MENTS.—The Secretary—

8 “(i) shall reduce the relative values
9 for all services (other than anesthesia serv-
10 ices) established under this paragraph
11 (and, in the case of anesthesia services, the
12 conversion factor established by the Sec-
13 retary for such services) by such percent-
14 age as the Secretary determines to be nec-
15 essary so that, beginning in 1996, the
16 amendment made by section 13441(a) of
17 the Omnibus Budget Reconciliation Act of
18 1993 would not result in expenditures
19 under this section that exceed the amount
20 of such expenditures that would have been
21 made if such amendment had not been
22 made, and

23 “(ii) shall reduce the amounts deter-
24 mined under subsection (a)(2)(B)(i)(I) by
25 such percentage as the Secretary deter-

1 mines to be required to assure that, taking
2 into account the reductions made under
3 clause (i), the amendment made by section
4 13441(a) of the Omnibus Budget Rec-
5 onciliation Act of 1993 would not result in
6 expenditures under this section in 1993
7 that exceed the amount of such expendi-
8 tures that would have been made if such
9 amendment had not been made.”.

10 (c) CONFORMING AMENDMENTS.—Section 1848 (42
11 U.S.C. 1395w-4) is amended—

12 (1) in subsection (a)(2)(B)(i)(I), by inserting
13 “and as adjusted under subsection (c)(2)(E)(ii)”
14 after “for 1993”;

15 (2) in subsection (c)(2)(A)(i), by adding at the
16 end the following: “Such relative values are subject
17 to adjustment under subparagraph (E)(i).”; and

18 (3) in subsection (i)(1)(B), by adding at the
19 end “including adjustments under subsection
20 (c)(2)(E).”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to services furnished on or after
23 January 1, 1994.

1 **SEC. 13442. PAYMENTS FOR NEW PHYSICIANS AND PRACTI-**
2 **TIONERS.**

3 (a) EQUAL TREATMENT OF NEW PHYSICIANS AND
4 PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C.
5 1395w-4(a)) is amended by striking paragraph (4).

6 (2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is
7 amended by striking subparagraph (F).

8 (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-
9 standing any other provision of law, the Secretary of
10 Health and Human Services shall reduce the following val-
11 ues and amounts for 1993 (to be applied for that year
12 and subsequent years) by such uniform percentage as the
13 Secretary determines to be required to assure that the
14 amendments made by subsection (a) will not result in ex-
15 penditures under part B of title XVIII of the Social Secu-
16 rity Act in 1993 that exceed the amount of such expendi-
17 tures that would have been made if such amendments had
18 not been made:

19 (1) The relative values established under section
20 1848(c) of such Act for services (other than anesthe-
21 sia services) and, in the case of anesthesia services,
22 the conversion factor established under section 1848
23 of such Act for such services.

24 (2) The amounts determined under section
25 1848(a)(2)(B)(i)(I) of such Act.

1 (3) The prevailing charges or fee schedule
2 amounts to be applied under such part for services
3 of a health care practitioner (as defined in section
4 1842(b)(4)(F)(ii)(I) of such Act, as in effect before
5 the date of the enactment of this Act).

6 (c) CONFORMING AMENDMENTS.—Section 1848 (42
7 U.S.C. 1395w-4), as amended by section 13441(c), is
8 amended—

9 (1) in subsection (a)(2)(B)(i)(I), by inserting
10 “and section 13442(b) of the Omnibus Budget Rec-
11 onciliation Act of 1993” after “(c)(2)(E)(ii)” after
12 “for 1993”;

13 (2) in subsection (c)(2)(A)(i), by inserting “and
14 section 13442(b) of the Omnibus Budget Reconcili-
15 ation Act of 1993” after “under subparagraph
16 (E)(i)”;

17 (3) in subsection (i)(1)(B), by inserting “and
18 section 13442(b) of the Omnibus Budget Reconcili-
19 ation Act of 1993” after “under subsection
20 (c)(2)(E)”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply to services furnished on or after
23 January 1, 1994.

1 **SEC. 13443. RETAINING PAYMENT FOR ACTUAL ANESTHE-**
2 **SIA TIME.**

3 (a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B)
4 (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at
5 the end the following: “The Secretary may not modify the
6 methodology in effect as of January 1, 1992, for determin-
7 ing the amount of time that may be billed for such services
8 under this section.”.

9 (b) SERVICES OF CERTIFIED REGISTERED NURSE
10 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.
11 1395l(l)(1)(B)) is amended by adding at the end the fol-
12 lowing: “The Secretary may not modify the methodology
13 in effect as of January 1, 1992, for determining the
14 amount of time that may be billed for such services under
15 this section.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take apply to services furnished on or
18 after the date of the enactment of this Act.

19 **SEC. 13444. GEOGRAPHIC COST OF PRACTICE INDEX RE-**
20 **FINEMENTS.**

21 (a) REQUIRING CONSULTATION WITH REPRESENTA-
22 TIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC AD-
23 JUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C.
24 1395w-4(e)(1)(C)) is amended by striking “shall review”
25 and inserting “shall, in consultation with appropriate rep-
26 resentatives of physicians, review”.

1 (b) USE OF MOST RECENT DATA IN GEOGRAPHIC
2 ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-
3 4(e)(1)) is amended by adding at the end the following
4 new subparagraph:

5 “(D) USE OF RECENT DATA.—In estab-
6 lishing indices and index values under this
7 paragraph, the Secretary shall use the most re-
8 cent data available relating to practice ex-
9 penses, malpractice expenses, and physician
10 work effort in different fee schedule areas.”.

11 (c) DEADLINE FOR INITIAL REVIEW AND REVI-
12 SION.—The Secretary of Health and Human Services
13 shall first review and revise geographic adjustment factors
14 under section 1848(e)(1)(C) of the Social Security Act by
15 not later than January 1, 1995. Not later than April 1,
16 1994, the Secretary shall study and report to report to
17 the Committee on Finance of the Senate and the Commit-
18 tee on Ways and Means and the Committee on Energy
19 and Commerce of the House of Representatives on the
20 construction of the geographic cost of practice index under
21 section 1848(e)(1)(A)(i) of such Act.

22 (d) REPORT ON REVIEW PROCESS.—Not later than
23 1 year after the date of the enactment of this Act, the
24 Secretary of Health and Human Services shall study and
25 report to the Committee on Finance of the Senate and

1 the Committee on Ways and Means and the Committee
2 on Energy and Commerce of the House of Representatives
3 on—

4 (1) the data necessary to review and revise the
5 indices established under section 1848(e)(1)(A) of
6 the Social Security Act, including—

7 (A) the shares allocated to physicians'
8 work effort, practice expenses (other than mal-
9 practice expenses), and malpractice expenses;

10 (B) the weights assigned to the input com-
11 ponents of such shares; and

12 (C) the index values assigned to such com-
13 ponents;

14 (2) any limitations on the availability of data
15 necessary to review and revise such indices at least
16 every three years;

17 (3) ways of addressing such limitations, with
18 particular attention to the development of alternative
19 data sources for input components for which current
20 index values are based on data collected less fre-
21 quently than every three years; and

22 (4) the costs of developing more accurate and
23 timely data.

24 (e) DEVELOPMENT OF CRITERIA FOR USE IN DE-
25 TERMINING PAYMENT LOCALITIES.—The Physician Pay-

1 ment Review Commission shall conduct a study to develop
2 criteria that would be used to refine the fee schedule areas
3 that are used within States, in applying geographic adjust-
4 ment factors for computing payment amounts, under sec-
5 tion 1848 of the Social Security Act. The Commission
6 shall include a report on such study in its recommenda-
7 tions submitted to the Congress under section 1845(b) of
8 such Act in 1994.

9 **SEC. 13445. EXTRA-BILLING.**

10 (a) ENFORCEMENT AND UNIFORM APPLICATION.—

11 (1) ENFORCEMENT.—Paragraph (1) of section
12 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read
13 as follows:

14 “(1) LIMITATION ON ACTUAL CHARGES.—

15 “(A) IN GENERAL.—In the case of a
16 nonparticipating physician or nonparticipating
17 supplier or other person (as defined in section
18 1842(i)(2)) who does not accept payment on an
19 assignment-related basis for a physician’s serv-
20 ice furnished with respect to an individual en-
21 rolled under this part, the following rules apply:

22 “(i) APPLICATION OF LIMITING
23 CHARGE.—No person may bill or collect an
24 actual charge for the service in excess of

1 the limiting charge described in paragraph
2 (2) for such service.

3 “(ii) NO LIABILITY FOR EXCESS
4 CHARGES.—No person is liable for pay-
5 ment of any amounts billed for the service
6 in excess of such limiting charge.

7 “(iii) CORRECTION OF EXCESS
8 CHARGES.—If such a physician, supplier,
9 or other person bills, but does not collect,
10 an actual charge for a service in violation
11 of clause (i), the physician, supplier, or
12 other person shall reduce on a timely basis
13 the actual charge billed for the service to
14 an amount not to exceed the limiting
15 charge for the service.

16 “(iv) REFUND OF EXCESS COLLEC-
17 TIONS.—If such a physician, supplier, or
18 other person collects an actual charge for
19 a service in violation of clause (i), the phy-
20 sician, supplier, or other person shall pro-
21 vide on a timely basis a refund to the indi-
22 vidual charged in the amount by which the
23 amount collected exceeded the limiting
24 charge for the service. The amount of such
25 a refund shall be reduced to the extent the

1 individual has an outstanding balance owed
2 by the individual to the physician.

3 “(B) SANCTIONS.—If a physician, supplier,
4 or other person—

5 “(i) knowingly and willfully bills or
6 collects for services in violation of subpara-
7 graph (A)(i) on a repeated basis, or

8 “(ii) fails to comply with clause (iii)
9 or (iv) of subparagraph (A) on a timely
10 basis,

11 the Secretary may apply sanctions against the
12 physician, supplier, or other person in accord-
13 ance with paragraph (2) of section 1842(j). In
14 applying this subparagraph, paragraph (4) of
15 such section applies in the same manner as
16 such paragraph applies to such section and any
17 reference in such section to a physician is
18 deemed also to include a reference to a supplier
19 or other person under this subparagraph.

20 “(C) TIMELY BASIS.—For purposes of this
21 paragraph, a correction of a bill for an excess
22 charge or refund of an amount with respect to
23 a violation of subparagraph (A)(i) in the case of
24 a service is considered to be provided ‘on a
25 timely basis’, if the reduction or refund is made

1 not later than 30 days after the date the physi-
2 cian, supplier, or other person is notified by the
3 carrier under this part of such violation and of
4 the requirements of subparagraph (A).”.

5 (2) UNIFORM APPLICATION OF EXTRA-BILLING
6 LIMITS TO PHYSICIANS’ SERVICES.—

7 (A) IN GENERAL.—Section 1848(g)(2)(C)
8 (42 U.S.C. 1395w-4(g)(2)(C)) is amended by
9 inserting “or for nonparticipating suppliers or
10 other persons” after “nonparticipating physi-
11 cians”.

12 (B) CONFORMING DEFINITION.—Section
13 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amend-
14 ed—

15 (i) by striking “, and the term” and
16 inserting “; the term”, and

17 (ii) by inserting before the period at
18 the end the following: “; and the term
19 ‘nonparticipating supplier or other person’
20 means a supplier or other person (exclud-
21 ing a provider of services) that is not a
22 participating physician or supplier (as de-
23 fined in subsection (h)(1))”.

1 (b) PRE-PAYMENT SCREENING OF CLAIMS.—Sub-
2 paragraph (G) of section 1842(b)(3) (42 U.S.C.
3 1395u(b)(3)) is amended to read as follows:

4 “(G) will, for a service that is furnished with
5 respect to an individual enrolled under this part,
6 that is not paid on an assignment-related basis, and
7 that is subject to a limiting charge under section
8 1848(g)—

9 “(i) determine, prior to making payment,
10 whether the amount billed for such service ex-
11 ceeds the limiting charge applicable under sec-
12 tion 1848(g)(2);

13 “(ii) notify the physician, supplier, or other
14 person periodically (but not less often than once
15 every 30 days) of determinations that amounts
16 billed exceeded such applicable limiting charges;
17 and

18 “(iii) provide for prompt response to in-
19 quiries of physicians, suppliers, and other per-
20 sons concerning the accuracy of such limiting
21 charges for their services;”.

22 (c) INFORMATION ON EXTRA-BILLING LIMITS.—

23 (1) PART OF EXPLANATION OF MEDICARE BEN-
24 EFITS.—Section 1842(h)(7) (42 U.S.C.
25 1395u(h)(7)) is amended—

1 (A) by striking “and” at the end of sub-
2 paragraph (B),

3 (B) in subparagraph (C), by striking “shall
4 include” and by striking the period at the end
5 and inserting “, and”, and

6 (C) by adding at the end the following new
7 subparagraph:

8 “(D) in the case of services for which the billed
9 amount exceeds the limiting charge imposed under
10 section 1848(g), information regarding such applica-
11 ble limiting charge (including information concern-
12 ing the right to a refund under section
13 1848(g)(1)(A)(iv)).”.

14 (2) REPORT ON CHARGES IN EXCESS OF LIMIT-
15 ING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C.
16 1395w-4(g)(6)(B)) is amended by inserting “the ex-
17 tent to which actual charges exceed limiting charges,
18 the number and types of services involved, and the
19 average amount of excess charges and” after “report
20 to the Congress”.

21 (d) APPLYING THE LIMITING CHARGE TO
22 NONPHYSICIAN SERVICES PROVIDED UNDER THE PHYSI-
23 CIAN FEE SCHEDULE.—Section 1848 (42 U.S.C. 1395w-
24 4) is amended—

1 (1) in subsection (a)(3), by inserting “AND SUP-
2 PLIERS” after “PHYSICIANS”, and by inserting “or a
3 nonparticipating supplier or other person” after
4 “nonparticipating physician” and by adding at the
5 end the following: “In the case of physicians’ serv-
6 ices (including services which the Secretary excludes
7 pursuant to subsection (j)(3)) of a nonparticipating
8 physician, supplier, or other person for which pay-
9 ment is made under this part on a basis other than
10 the fee schedule amount, the payment shall be based
11 on 95 percent of the payment basis for such services
12 furnished by a participating physician, supplier, or
13 other person.”;

14 (2) in subsection (g)(1)(A), as amended by sub-
15 section (a), in the matter before clause (i), by insert-
16 ing “(including services which the Secretary excludes
17 pursuant to subsection (j)(3))” after “a physician’s
18 service”;

19 (3) in subsection (g)(2)(D), by inserting “(or, if
20 payment under this part is made on a basis other
21 than the fee schedule under this section, 95 percent
22 of the other payment basis)” after “subsection (a)”;

23 (4) in subsection (g)(3)(B)—

24 (A) by inserting after the first sentence the
25 following: “ No person is liable for payment of

1 any amounts billed for such a service in viola-
2 tion of the previous sentence.”, and

3 (B) in the last sentence, by striking “pre-
4 vious sentence” and inserting “first sentence”;
5 (5) in subsection (h)—

6 (A) by inserting “or nonparticipating sup-
7 plier or other person furnishing physicians’
8 services (as defined in section 1848(j)(3))”
9 after “physician” the first place it appears,

10 (B) by inserting “, supplier, or other per-
11 son” after “physician” the second place it ap-
12 pears, and

13 (C) by inserting “, suppliers, and other
14 persons” after “physicians” the second place it
15 appears; and

16 (6) in subsection (j)(3), by inserting “, except
17 for purposes of subsections (a)(3), (g), and (h)”
18 after “tests and”.

19 (e) CLARIFICATION OF MANDATORY ASSIGNMENT
20 RULES FOR CERTAIN PRACTITIONERS.—

21 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.
22 1395u(b)), as amended by section 13449(e), is
23 amended by adding at the end the following new
24 paragraph:

1 “(18)(A) Payment for any service furnished by a
2 practitioner described in subparagraph (C) and for which
3 payment may be made under this part on a reasonable
4 charge or fee schedule basis may only be made under this
5 part on an assignment-related basis.

6 “(B) A practitioner described in subparagraph (C) or
7 other person may not bill (or collect any amount from)
8 the individual or another person for any service described
9 in subparagraph (A), except for deductible and coinsur-
10 ance amounts applicable under this part. No person is lia-
11 ble for payment of any amounts billed for such a service
12 in violation of the previous sentence. If a practitioner or
13 other person knowingly and willfully bills (or collects an
14 amount) for such a service in violation of such sentence,
15 the Secretary may apply sanctions against the practitioner
16 or other person in the same manner as the Secretary may
17 apply sanctions against a physician in accordance with
18 section 1842(j)(2) in the same manner as such section ap-
19 plies with respect to a physician. Paragraph (4) of section
20 1842(j) shall apply in this subparagraph in the same man-
21 ner as such paragraph applies to such section.

22 “(C) A practitioner described in this subparagraph
23 is any of the following:

1 “(i) A physician assistant, nurse practitioner, or
2 clinical nurse specialist (as defined in section
3 1861(aa)(5)).

4 “(ii) A certified registered nurse anesthetist (as
5 defined in section 1861(bb)(2)).

6 “(iii) A certified nurse-midwife (as defined in
7 section 1861(gg)(2)).

8 “(iv) A clinical social worker (as defined in sec-
9 tion 1861(hh)(1)).

10 “(v) A clinical psychologist (as defined by the
11 Secretary for purposes of section 1861(ii)).

12 “(D) For purposes of this paragraph, a service fur-
13 nished by a practitioner described in subparagraph (C) in-
14 cludes any services and supplies furnished as incident to
15 the service as would otherwise be covered under this part
16 if furnished by a physician or as incident to a physician’s
17 service.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 1833 (42 U.S.C. 1395l) is
20 amended—

21 (i) in subsection (l)(5), by striking
22 subparagraph (B) and redesignating sub-
23 paragraph (C) as subparagraph (B);

24 (ii) by striking subsection (p); and

1 (iii) in subsection (r), by striking
2 paragraph (3) and redesignating para-
3 graph (4) as paragraph (3).

4 (B) Section 1842(b)(12) (42 U.S.C.
5 1395u(b)(12)) is amended by striking subpara-
6 graph (C).

7 (f) MISCELLANEOUS AND TECHNICAL AMEND-
8 MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—
9 (1) in subsection (a)(1), as amended by section
10 13479(e)(2)—

11 (A) by striking “and” before “(O)”, and

12 (B) by inserting before the semicolon at
13 the end the following: “, and (P) with respect
14 to services described in clauses (i), (ii) and (iv)
15 of section 1861(s)(2)(K), the amounts paid are
16 subject to the provisions of section
17 1842(b)(12)”; and

18 (2) in subsection (h)(5)(D)—

19 (A) by striking “paragraphs (2) and (3)”
20 and by inserting “paragraph (2)”, and

21 (B) by adding at the end the following:
22 “Paragraph (4) of such section shall apply in
23 this subparagraph in the same manner as such
24 paragraph applies to such section.”.

25 (g) EFFECTIVE DATES.—

1 (1) ENFORCEMENT AND UNIFORM APPLICA-
2 TION; MISCELLANEOUS AND TECHNICAL AMEND-
3 MENTS.—The amendments made by subsections (a),
4 (d), and (f) shall apply to services furnished on or
5 after the date of the enactment of this Act; except
6 that such amendments made by subsections (a) and
7 (d) shall not apply to services of a nonparticipating
8 supplier or other person furnished before January 1,
9 1994.

10 (2) CARRIER DETERMINATIONS.—The amend-
11 ments made by subsection (b) shall apply to con-
12 tracts as of January 1, 1994.

13 (3) EOMBS.—The amendments made by sub-
14 section (c)(1) shall apply to explanations of benefits
15 provided on or after January 1, 1994.

16 (4) REPORT.—The amendment made by sub-
17 section (c)(2) shall apply to reports for years begin-
18 ning with 1994.

19 (5) PRACTITIONERS.—The amendments made
20 by subsection (e) shall apply to services furnished on
21 or after January 1, 1994.

22 **SEC. 13446. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

23 (a) IN GENERAL.—The Secretary of Health and
24 Human Services shall fully develop, by not later than July
25 1, 1994, relative values for the full range of pediatric phy-

1 sicians' services which are consistent with the relative val-
2 ues developed for other physicians' services under section
3 1848(c) of the Social Security Act. In developing such val-
4 ues, the Secretary shall conduct such refinements as may
5 be necessary to produce appropriate estimates for such rel-
6 ative values.

7 (b) STUDY.—

8 (1) IN GENERAL.—The Secretary shall conduct
9 a study of the relative values for pediatric and other
10 services to determine whether there are significant
11 variations in the resources used in providing similar
12 services to different populations. In conducting such
13 study, the Secretary shall consult with appropriate
14 organizations representing pediatricians and other
15 physicians.

16 (2) REPORT.—Not later than July 1, 1994, the
17 Secretary shall submit to Congress a report on the
18 study conducted under paragraph (1). Such report
19 shall include any appropriate recommendations re-
20 garding needed changes in coding or other payment
21 policies to ensure that payments for pediatric serv-
22 ices appropriately reflect the resources required to
23 provide these services.

1 **SEC. 13447. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.**

2 (a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C.
3 1395w-4(j)(3)) is amended by inserting “(2)(G),” after
4 “(2)(D),”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to services furnished on or after
7 January 1, 1995.

8 **SEC. 13448. ADMINISTRATION OF CLAIMS RELATING TO**
9 **PHYSICIANS’ SERVICES.**

10 (a) LIMITATION ON CARRIER USER FEES.—Section
11 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at
12 the end the following new paragraph:

13 “(4) Neither a carrier nor the Secretary may impose
14 a fee under this title—

15 “(A) for the filing of claims related to physi-
16 cians’ services,

17 “(B) for an error in filing a claim relating to
18 physicians’ services or for such a claim which is
19 denied,

20 “(C) for any appeal under this title with respect
21 to physicians’ services,

22 “(D) for applying for (or obtaining) a unique
23 identifier under subsection (r), or

24 “(E) for responding to inquiries respecting phy-
25 sicians’ services or for providing information with re-
26 spect to medical review of such services.”.

1 (b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE
2 BILLING ARRANGEMENTS.—

3 (1) IN GENERAL.—Clause (D) of section
4 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by
5 section 13449(f), is amended to read as follows:
6 “(D) payment may be made to a physician for physi-
7 cians’ services (and services furnished incident to
8 such services) furnished by a second physician to pa-
9 tients of the first physician if (i) the first physician
10 is unavailable to provide the services; (ii) the services
11 are furnished pursuant to an arrangement between
12 the two physicians that (I) is informal and recip-
13 rocal, or (II) involves per diem or other fee-for-time
14 compensation for such services; (iii) the services are
15 not provided by the second physician over a continu-
16 ous period of more than 60 days; and (iv) the claim
17 form submitted to the carrier for such services in-
18 cludes the second physician’s unique identifier (pro-
19 vided under the system established under subsection
20 (r)) and indicates that the claim meets the require-
21 ments of this clause for payment to the first physi-
22 cian”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall apply to services furnished on
25 or after the first day of the first month beginning

1 more than 60 days after the date of the enactment
2 of this Act.

3 **SEC. 13449. MISCELLANEOUS AND TECHNICAL CORREC-**
4 **TIONS.**

5 (a) OVERVALUED PROCEDURES (SECTION 4101 OF
6 OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42
7 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

8 (A) by striking “, simple and subcutaneous”,

9 (B) by striking “; small” and inserting “and
10 small”,

11 (C) by striking “treatments;” the first place it
12 appears and inserting “and”,

13 (D) by striking “lobectomy;”,

14 (E) by striking “enterectomy; colectomy; chole-
15 cystectomy;”,

16 (F) by striking “; transurethral resection”
17 and inserting “and resection”, and

18 (G) by striking “sacral laminectomy;”.

19 (2) Section 4101(b)(2) of OBRA-1990 is amended—

20 (A) in the matter before subparagraph (A), by
21 striking “1842(b)(16)” and inserting

22 “1842(b)(16)(B)”, and

23 (B) in subparagraph (B)—

24 (i) by striking “, simple and subcutane-
25 ous”,

1 (ii) by striking “(HCPCS codes 19160 and
2 19162)” and inserting “(HCPCS code 19160)”,
3 and

4 (iii) by striking all that follows “(HCPCS
5 codes 92250” and inserting “and 92260).”.

6 (b) RADIOLOGY SERVICES (SECTION 4102 OF
7 OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C.
8 1395m(b)(4)) is amended by redesignating subparagraphs
9 (E) and (F) as subparagraphs (F) and (G), respectively.
10 (2) Section 1834(b)(4)(D) (42 U.S.C.
11 1395m(b)(4)(D)) is amended—

12 (A) in the matter before clause (i), by striking
13 “shall be determined as follows:” and inserting
14 “shall, subject to clause (vii), be reduced to the ad-
15 justed conversion factor for the locality determined
16 as follows:”,

17 (B) in clause (iv), by striking “LOCAL ADJUST-
18 MENT.—Subject to clause (vii), the conversion factor
19 to be applied to” and inserting “ADJUSTED CONVER-
20 SION FACTOR.—The adjusted conversion factor for”,

21 (C) in clause (vii), by striking “under this sub-
22 paragraph”, and

23 (D) in clause (vii), by inserting “reduced under
24 this subparagraph by” after “shall not be”.

1 (3) Section 4102(c)(2) of OBRA-1990 is amended
2 by striking “radiology services” and all that follows and
3 inserting “nuclear medicine services.”

4 (4) Section 4102(d) of OBRA-1990 is amended by
5 striking “new paragraph” and inserting “new subpara-
6 graph”.

7 (5) Section 1834(b)(4)(E) (42 U.S.C.
8 1395m(b)(4)(E)) is amended by inserting “RULE FOR
9 CERTAIN SCANNING SERVICES.—” after “(E)”.

10 (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-
11 4(a)(2)(D)(iii)) is amended by striking “that are subject
12 to section 6105(b) of the Omnibus Budget Reconciliation
13 Act of 1989” and by striking “provided under such sec-
14 tion” and inserting “provided under section 6105(b) of the
15 Omnibus Budget Reconciliation Act of 1989”.

16 (c) ANESTHESIA SERVICES (SECTION 4103 OF
17 OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is
18 amended by striking “REDUCTION IN FEE SCHEDULE”
19 and inserting “REDUCTION IN PREVAILING CHARGES”.

20 (2) Section 1842(q)(1)(B) (42 U.S.C.
21 1395u(q)(1)(B)) is amended—

22 (A) in the matter before clause (i), by striking
23 “shall be determined as follows:” and inserting
24 “shall, subject to clause (iv), be reduced to the ad-

1 justed prevailing charge conversion factor for the lo-
2 cality determined as follows:”, and

3 (B) in clause (iii), by striking “Subject to
4 clause (iv), the prevailing charge conversion factor to
5 be applied in” and inserting “The adjusted prevail-
6 ing charge conversion factor for”.

7 (d) ASSISTANTS AT SURGERY (SECTION 4107 OF
8 OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is
9 amended by inserting “(a)(1)” after “subsection”.

10 (2) Section 4107(a)(2) of OBRA-1990 is amended
11 by adding at the end the following: “In applying section
12 1848(g)(2)(D) of the Social Security Act for services of
13 an assistant-at-surgery furnished during 1991, the recog-
14 nized payment amount shall not exceed the maximum
15 amount specified under section 1848(i)(2)(A) of such Act
16 (as applied under this paragraph in such year).”.

17 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-
18 ICES (SECTION 4108 OF OBRA-1990).—Section 1842(b)
19 (42 U.S.C. 1395u(b)) is amended by redesignating para-
20 graph (18), as added by section 4108(a) of OBRA-1990,
21 as paragraph (17) and, in such paragraph, by inserting
22 “, tests specified in paragraph (14)(C)(i),” after “diag-
23 nostic laboratory tests”.

1 (f) RECIPROCAL BILLING ARRANGEMENTS (SECTION
2 4110 OF OBRA-1990).—Section 1842(b)(6)(D) (42
3 U.S.C. 1395u(b)(6)(D)) is amended—

4 (1) by striking “visit services (including emer-
5 gency visits and related services)” and inserting
6 “physicians’ services (and services furnished incident
7 to such services)”;

8 (2) by striking “on an occasional, reciprocal
9 basis” and inserting “under an arrangement that is
10 informal and reciprocal or involves per diem or other
11 fee-for-time compensation for services”;

12 (3) by striking “visit” in subclauses (i), (ii),
13 and (iv); and

14 (4) in subclause (iii), by striking “the claim”
15 and all that follows through the comma at the end
16 and inserting “the claim meets the requirements of
17 this clause for payment to the first physician”.

18 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF
19 SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF
20 OBRA-1990).—Section 4113 of OBRA-1990 is amend-
21 ed—

22 (1) by inserting “of the Social Security Act”
23 after “1869(b)(2)”;

24 (2) by striking “December 31, 1992” and in-
25 serting “December 31, 1993”.

1 (h) STATEWIDE FEE SCHEDULES (SECTION 4117 OF
2 OBRA-1990).—Section 4117 of OBRA-1990 is amend-
3 ed—

4 (1) in subsection (a)—

5 (A) by striking “IN GENERAL.—”, and

6 (B) by striking “, if the” and all that fol-
7 lows through “1991, ”; and

8 (2) by striking subsections (b), (c), and (d).

9 (i) OTHER MISCELLANEOUS AND TECHNICAL
10 AMENDMENTS.—(1) The heading of section 1834(f) (42
11 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

12 (2)(A) Section 4105(b) of OBRA-1990 is amended—

13 (i) in paragraph (2), by striking “amendments”
14 and inserting “amendment”, and

15 (ii) in paragraph (3), by striking “amendments
16 made by paragraphs (1) and (2)” and inserting
17 “amendment made by paragraph (1)”.

18 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-
19 4(f)(2)(C)) is amended by inserting “PERFORMANCE
20 STANDARD RATES OF INCREASE FOR FISCAL YEAR
21 1991.—” after “(C)”.

22 (C) Section 4105(d) of OBRA-1990 is amended by
23 inserting “PUBLICATION OF PERFORMANCE STANDARD
24 RATES.—” after “(d)”.

1 (3) Section 1842(b)(4)(F) (42 U.S.C.
2 1395u(b)(4)(F)) is amended—

3 (A) in clause (i), by striking “prevailing
4 charge” the first place it appears and inserting
5 “customary charge”; and

6 (B) in clause (ii)(III), by striking “second,
7 third, and fourth” and inserting “first, second, and
8 third”.

9 (4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C.
10 1395u(b)(4)(F)(ii)(I)) is amended by striking “respiratory
11 therapist,”.

12 (5) Section 4106(c) of OBRA–1990 is amended by
13 inserting “of the Social Security Act” after
14 “1848(d)(1)(B)”.

15 (6) Section 4114 of OBRA–1990 is amended by
16 striking “patients” the second place it appears.

17 (7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–
18 4(e)(1)(C)) is amended by inserting “date of the” after
19 “since the”.

20 (8) Section 4118(f)(1)(D) of OBRA–1990 is amend-
21 ed by striking “is amended”.

22 (9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is
23 amended by striking “subsection (f)(5)(A)” and inserting
24 “subsection (f)(5)(A))”.

1 (10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is
2 amended—

3 (A) by striking paragraph (2); and

4 (B) by redesignating paragraphs (3), (4), and
5 (5) as paragraphs (2), (3), and (4).

6 (11) Section 4118(j)(2) of OBRA-1990 is amended
7 by striking “In section” and inserting “Section”.

8 (12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-
9 4(i)(3)) is amended by striking the space before the period
10 at the end.

11 (B) Section 1834(a)(10)(B) (42 U.S.C.
12 1395m(a)(10)(B)) is amended—

13 (i) by striking “apply to” and inserting “would
14 otherwise apply to”, and

15 (ii) by inserting before the period at the end
16 “but for the application of section 1848(i)(3)”.

17 (j) EFFECTIVE DATE.—The amendments made by
18 this section and the provisions of this section shall take
19 effect as if included in the enactment of OBRA-1990.

20 **Subchapter C—Ambulatory Surgical Center**
21 **Services**

22 **SEC. 13451. DESIGNATION OF CERTAIN HOSPITALS AS EYE**
23 **OR EYE AND EAR HOSPITALS.**

24 (a) IN GENERAL.—Section 1833(i) (42 U.S.C.
25 1395l(i)) is amended—

1 (1) in subparagraph (B)(ii)—

2 (A) by striking “the last sentence of this
3 clause” and inserting “paragraph (4)”, and

4 (B) by striking the last sentence; and

5 (2) by inserting after paragraph (3) the follow-
6 ing new paragraph:

7 “(4)(A) In the case of a hospital that—

8 “(i) makes application to the Secretary and
9 demonstrates that it specializes in eye services or eye
10 and ear services (as determined by the Secretary),

11 “(ii) receives more than 30 percent of its total
12 revenues from outpatient services, and

13 “(iii) on October 1, 1987—

14 “(I) was an eye specialty hospital or an eye
15 and ear specialty hospital, or

16 “(II) was operated as an eye or eye and
17 ear unit (as defined in subparagraph (B)) of a
18 general acute care hospital which, on the date
19 of the application described in clause (i), oper-
20 ates less than 20 percent of the beds that the
21 hospital operated on October 1, 1987, and has
22 sold or otherwise disposed of a substantial por-
23 tion of the hospital’s other acute care oper-
24 ations,

1 the cost proportion and ASC proportion in effect under
2 subclauses (I) and (II) of paragraph (2)(B)(ii) for cost
3 reporting periods beginning in fiscal year 1988 shall re-
4 main in effect for cost reporting periods beginning on or
5 after October 1, 1988, and before January 1, 1995.

6 “(B) For purposes of this subparagraph (A)(iii)(II),
7 the term ‘eye or eye and ear unit’ means a physically sepa-
8 rate or distinct unit containing separate surgical suites de-
9 voted solely to eye or eye and ear services.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply to portions of cost reporting
12 periods beginning on or after January 1, 1994.

13 **SEC. 13452. TREATMENT OF INTRAOCULAR LENSES.**

14 (a) EXTENSION OF CAP ON PAYMENTS THROUGH
15 1994.—

16 (1) IN GENERAL.—Section 4151(c)(3) of
17 OBRA–1990 is amended by striking “December 31,
18 1992” and inserting “December 31, 1994”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) this subsection shall be effective as
21 if included in the enactment of OBRA–1990.

22 (b) STUDY OF COSTS OF INTRAOCULAR LENSES.—

23 (1) STUDY.—The Secretary of Health and
24 Human Services shall conduct a study, based on re-
25 cent data, of the acquisition costs to providers of

1 intraocular lenses provided to individuals enrolled
2 under part B of the medicare program and shall in-
3 clude in the study an analysis of the impact of the
4 availability of new technology lenses on such costs.

5 (2) REPORT.—Not later than 1 year after the
6 date of the enactment of this Act, the Secretary
7 shall submit a report on the study conducted under
8 paragraph (1) to the Committee on Finance of the
9 Senate and the Committees on Ways and Means and
10 Energy and Commerce of the House of Representa-
11 tives, and shall include in the report any rec-
12 ommendations the Secretary considers appropriate
13 regarding the determination of payment amounts for
14 intraocular lenses under part B of the medicare
15 program.

16 **SEC. 13453. TECHNICAL AMENDMENTS.**

17 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED
18 IN AMBULATORY SURGICAL CENTERS.—

19 (1) USE OF SURVEY TO DETERMINE INCURRED
20 COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C.
21 1395l(i)(2)(A)(i)) is amended by striking the comma
22 at the end and inserting the following: “, as deter-
23 mined in accordance with a survey (based upon a
24 representative sample of procedures and facilities)
25 taken not later than January 1, 1994, and every 5

1 years thereafter, of the actual audited costs incurred
2 by such centers in providing such services.”.

3 (2) AUTOMATIC APPLICATION OF INFLATION
4 ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C.
5 1395l(i)(2)) is amended—

6 (A) in the second sentence of subpara-
7 graph (A) and the second sentence of subpara-
8 graph (B), by striking “and may be adjusted by
9 the Secretary, when appropriate,”; and

10 (B) by adding at the end the following new
11 subparagraph:

12 “(C) Notwithstanding the second sentence of sub-
13 paragraph (A) or the second sentence of subparagraph
14 (B), if the Secretary has not updated amounts established
15 under such subparagraphs with respect to facility services
16 furnished during a fiscal year (beginning with fiscal year
17 1995), such amounts shall be increased by the percentage
18 increase in the consumer price index for all urban consum-
19 ers (U.S. city average) for the 12-month period ending
20 with March of the preceding fiscal year.”.

21 (3) CONSULTATION REQUIREMENT.—The sec-
22 ond sentence of section 1833(i)(1) (42 U.S.C.
23 1395l(i)(1)) is amended by striking the period and
24 inserting the following: “, in consultation with ap-
25 propriate trade and professional organizations.”.

1 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW
2 TECHNOLOGY INTRAOCULAR LENSES.—

3 (1) ESTABLISHMENT OF PROCESS FOR REVIEW
4 OF AMOUNTS.—Not later than 1 year after the date
5 of the enactment of this Act, the Secretary of
6 Health and Human Services (in this subsection re-
7 ferred to as the “Secretary”) shall develop and im-
8 plement a process under which interested parties
9 may request review by the Secretary of the appro-
10 priateness of the reimbursement amount provided
11 under section 1833(i)(2)(A)(iii) of the Social Secu-
12 rity Act with respect to a class of new technology
13 intraocular lenses. For purposes of the preceding
14 sentence, an intraocular lens may not be treated as
15 a new technology lens unless it has been approved
16 by the Food and Drug Administration.

17 (2) FACTORS CONSIDERED.—In determining
18 whether to provide an adjustment of payment with
19 respect to a particular lens under paragraph (1), the
20 Secretary shall take into account whether use of the
21 lens is likely to result in reduced risk of
22 intraoperative or postoperative complication or trau-
23 ma, accelerated postoperative recovery, reduced in-
24 duced astigmatism, improved postoperative visual

1 acuity, more stable postoperative vision, or other
2 comparable clinical advantages.

3 (3) NOTICE AND COMMENT.—The Secretary
4 shall publish notice in the Federal Register from
5 time to time (but no less often than once each year)
6 of a list of the requests that the Secretary has re-
7 ceived for review under this subsection, and shall
8 provide for a 30-day comment period on the lenses
9 that are the subjects of the requests contained in
10 such notice. The Secretary shall publish a notice of
11 his determinations with respect to intraocular lenses
12 listed in the notice within 90 days after the close of
13 the comment period.

14 (4) EFFECTIVE DATE OF ADJUSTMENT.—Any
15 adjustment of a payment amount (or payment limit)
16 made under this subsection shall become effective
17 not later than 30 days after the date on which the
18 notice with respect to the adjustment is published
19 under paragraph (3).

20 (c) TECHNICAL CORRECTION RELATING TO BLEND
21 AMOUNTS FOR AMBULATORY SURGICAL CENTER PAY-
22 MENTS.—

23 (1) IN GENERAL.—Subclauses (I) and (II) of
24 section 1833(i)(3)(B)(ii) (42 U.S.C.
25 1395l(i)(3)(B)(ii)) are each amended—

1 (A) by striking “for reporting” and insert-
2 ing “for portions of cost reporting”; and

3 (B) by striking “and on or before” and in-
4 serting “and ending on or before”.

5 (2) EFFECTIVE DATE.—The amendments made
6 by paragraph (1) shall take effect as if included in
7 the enactment of OBRA–1990.

8 (d) TECHNICAL CORRECTION RELATED TO CATA-
9 RACT SURGERY.—Effective as if included in the enact-
10 ment of OBRA–1990, section 4151(c)(3) of such Act is
11 amended by striking “for the insertion of an intraocular
12 lens” and inserting “for an intraocular lens inserted”.

13 **Subchapter D—Durable Medical Equipment**

14 **SEC. 13461. CERTIFICATION OF SUPPLIERS.**

15 (a) REQUIREMENTS.—

16 (1) IN GENERAL.—Section 1834 (42 U.S.C.
17 1395m) is amended by adding at the end the follow-
18 ing new subsection:

19 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
20 EQUIPMENT AND SUPPLIES.—

21 “(1) ISSUANCE AND RENEWAL OF SUPPLIER
22 NUMBER.—

23 “(A) PAYMENT.—Except as provided in
24 subparagraph (C), no payment may be made
25 under this part after October 1, 1993, for items

1 furnished by a supplier of medical equipment
2 and supplies unless such supplier obtains (and
3 renews at such intervals as the Secretary may
4 require) a supplier number.

5 “(B) STANDARDS FOR POSSESSING A SUP-
6 PLIER NUMBER.—A supplier may not obtain a
7 supplier number unless—

8 “(i) for medical equipment and sup-
9 plies furnished on or after October 1,
10 1993, and on or before December 31,
11 1994, the supplier meets standards pre-
12 scribed by the Secretary; and

13 “(ii) for medical equipment and sup-
14 plies furnished on or after January 1,
15 1995, the supplier meets revised standards
16 prescribed by the Secretary (in consulta-
17 tion with representatives of suppliers of
18 medical equipment and supplies, carriers,
19 and consumers) that shall include require-
20 ments that the supplier—

21 “(I) comply with all applicable
22 State and Federal licensure and regu-
23 latory requirements;

24 “(II) maintain a physical facility
25 on an appropriate site;

1 “(III) have proof of appropriate
2 liability insurance; and

3 “(IV) meet such other require-
4 ments as the Secretary may specify.

5 “(C) EXCEPTION FOR ITEMS FURNISHED
6 AS INCIDENT TO A PHYSICIAN’S SERVICE.—
7 Subparagraph (A) shall not apply with respect
8 to medical equipment and supplies furnished as
9 an incident to a physician’s service.

10 “(D) PROHIBITION AGAINST MULTIPLE
11 SUPPLIER NUMBERS.—The Secretary may not
12 issue more than one supplier number to any
13 supplier of medical equipment and supplies un-
14 less the issuance of more than one number is
15 appropriate to identify subsidiary or regional
16 entities under the supplier’s ownership or con-
17 trol.

18 “(E) PROHIBITION AGAINST DELEGATION
19 OF SUPPLIER DETERMINATIONS.—The Sec-
20 retary may not delegate (other than by contract
21 under section 1842) the responsibility to deter-
22 mine whether suppliers meet the standards nec-
23 essary to obtain a supplier number.

24 “(2) CERTIFICATES OF MEDICAL NECESSITY.—

1 “(A) STANDARDIZED CERTIFICATES.—Not
2 later than October 1, 1993, the Secretary shall,
3 in consultation with carriers under this part,
4 develop one or more standardized certificates of
5 medical necessity (as defined in subparagraph
6 (C)) for medical equipment and supplies for
7 which the Secretary determines that such a cer-
8 tificate is necessary.

9 “(B) PROHIBITION AGAINST DISTRIBUTION
10 BY SUPPLIERS OF CERTIFICATES OF MEDICAL
11 NECESSITY.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), a supplier of medical
14 equipment and supplies may not distribute
15 to physicians or to individuals entitled to
16 benefits under this part for commercial
17 purposes any completed or partially com-
18 pleted certificates of medical necessity on
19 or after October 1, 1993.

20 “(ii) EXCEPTION FOR CERTAIN BILL-
21 ING INFORMATION.—Clause (i) shall not
22 apply with respect to a certificate of medi-
23 cal necessity for any item that is not con-
24 tained on the list of potentially overused
25 items developed by the Secretary under

1 subsection (a)(15)(A) to the extent that
2 such certificate contains only information
3 completed by the supplier of medical equip-
4 ment and supplies identifying such supplier
5 and the beneficiary to whom such medical
6 equipment and supplies are furnished, a
7 description of such medical equipment and
8 supplies, any product code identifying such
9 medical equipment and supplies, and any
10 other administrative information (other
11 than information relating to the bene-
12 ficiary's medical condition) identified by
13 the Secretary. In the event a supplier pro-
14 vides a certificate of medical necessity con-
15 taining information permitted under this
16 clause, such certificate shall also contain
17 the fee schedule amount and the supplier's
18 charge for the medical equipment or sup-
19 plies being furnished prior to distribution
20 of such certificate to the physician.

21 “(iii) PENALTY.—Any supplier of
22 medical equipment and supplies who know-
23 ingly and willfully distributes a certificate
24 of medical necessity in violation of clause
25 (i) is subject to a civil money penalty in an

1 amount not to exceed \$1,000 for each such
2 certificate of medical necessity so distrib-
3 uted. The provisions of section 1128A
4 (other than subsections (a) and (b)) shall
5 apply to civil money penalties under this
6 subparagraph in the same manner as they
7 apply to a penalty or proceeding under sec-
8 tion 1128A(a).

9 “(C) DEFINITION.—For purposes of this
10 paragraph, the term ‘certificate of medical ne-
11 cessity’ means a form or other document con-
12 taining information required by the Secretary to
13 be submitted to show that a covered item is
14 reasonable and necessary for the diagnosis or
15 treatment of illness or injury or to improve the
16 functioning of a malformed body member.

17 “(3) COVERAGE AND REVIEW CRITERIA.—

18 “(A) DEVELOPMENT AND ESTABLISH-
19 MENT.—Not later than January 1, 1995, the
20 Secretary, in consultation with representatives
21 of suppliers of medical equipment and supplies,
22 individuals enrolled under this part, and appro-
23 priate medical specialty societies, shall develop
24 and establish uniform national coverage and
25 utilization review criteria for 200 items of medi-

1 cal equipment and supplies selected in accord-
2 ance with the standards described in subpara-
3 graph (B). The Secretary shall publish the cri-
4 teria as part of the instructions provided to fis-
5 cal intermediaries and carriers under this part
6 and no further publication, including publica-
7 tion in the Federal Register, shall be required.

8 “(B) STANDARDS FOR SELECTING ITEMS
9 SUBJECT TO CRITERIA.—The Secretary may se-
10 lect an item for coverage under the criteria de-
11 veloped and established under subparagraph
12 (A) if the Secretary finds that—

13 “(i) the item is frequently purchased
14 or rented by beneficiaries;

15 “(ii) the item is frequently subject to
16 a determination that such item is not
17 medically necessary; or

18 “(iii) the coverage or utilization cri-
19 teria applied to the item (as of the date of
20 the enactment of this subsection) is not
21 consistent among carriers.

22 “(C) ANNUAL REVIEW AND EXPANSION OF
23 ITEMS SUBJECT TO CRITERIA.—The Secretary
24 shall annually review the coverage and utiliza-
25 tion of items of medical equipment and supplies

1 to determine whether items not included among
2 the items selected under subparagraph (A)
3 should be made subject to uniform national cov-
4 erage and utilization review criteria, and, if ap-
5 propriate, shall develop and apply such criteria
6 to such additional items.

7 “(4) DEFINITION.—The term ‘medical equip-
8 ment and supplies’ means—

9 “(A) durable medical equipment (as de-
10 fined in section 1861(n));

11 “(B) prosthetic devices (as described in
12 section 1861(s)(8));

13 “(C) orthotics and prosthetics (as de-
14 scribed in section 1861(s)(9));

15 “(D) surgical dressings (as described in
16 section 1861(s)(5));

17 “(E) such other items as the Secretary
18 may determine; and

19 “(F) for purposes of paragraphs (1) and
20 (3)—

21 “(i) home dialysis supplies and equip-
22 ment (as described in section
23 1861(s)(2)(F)), and

24 “(ii) immunosuppressive drugs (as de-
25 scribed in section 1861(s)(2)(J)).”.

1 (2) CONFORMING AMENDMENT.—Effective October
2 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C.
3 1395m(a)) is repealed.

4 (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON
5 UTILIZATION OF ITEMS.—Not later than July 1, 1995,
6 the Secretary shall submit a report to the Committee on
7 Ways and Means and the Committee on Energy and Com-
8 merce of the House of Representatives and the Committee
9 on Finance of the Senate analyzing the impact of the uni-
10 form criteria established under section 1834(i)(3)(A) of
11 the Social Security Act (as added by subsection (a)) on
12 the utilization of items of medical equipment and supplies
13 by individuals enrolled under part B of the medicare pro-
14 gram.

15 (c) USE OF COVERED ITEMS BY DISABLED BENE-
16 FICIARIES.—

17 (1) IN GENERAL.—The Secretary of Health and
18 Human Services in consultation with representatives
19 of suppliers of durable medical equipment under
20 part B of the medicare program and individuals en-
21 titled to benefits under such program on the basis
22 of disability, shall conduct a study of the effects of
23 the methodology for determining payments for items
24 of such equipment under such part on the ability of

1 such individuals to obtain items of such equipment,
2 including customized items.

3 (2) REPORT.—Not later than May 1, 1994, the
4 Secretary shall submit a report to Congress on the
5 study conducted under paragraph (1), and shall in-
6 clude in the report such recommendations as the
7 Secretary considers appropriate to assure that dis-
8 abled medicare beneficiaries have access to items of
9 durable medical equipment.

10 (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-
11 THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—
12 Not later than July 1, 1994, the Secretary of Health and
13 Human Services shall submit a report to the Committees
14 on Ways and Means and Energy and Commerce of the
15 House of Representatives and the Committee on Finance
16 of the Senate describing prosthetic devices or orthotics
17 and prosthetics covered under part B of the medicare pro-
18 gram that do not require individualized or custom fitting
19 and adjustment to be used by a patient. Such report shall
20 include recommendations for an appropriate methodology
21 for determining the amount of payment for such items
22 under such program.

1 **SEC. 13462. PROHIBITION AGAINST CARRIER FORUM SHOP-**
2 **PING.**

3 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.
4 1395m(a)(12)) is amended to read as follows:

5 “(12) USE OF CARRIERS TO PROCESS
6 CLAIMS.—

7 “(A) DESIGNATION OF REGIONAL CAR-
8 RRIERS.—The Secretary may designate, by regu-
9 lation under section 1842, one carrier for one
10 or more entire regions to process all claims
11 within the region for covered items under this
12 section.

13 “(B) PROHIBITION AGAINST CARRIER
14 SHOPPING.—(i) No supplier of a covered item
15 may present or cause to be presented a claim
16 for payment under this part unless such claim
17 is presented to the appropriate regional carrier
18 (as designated by the Secretary).

19 “(ii) For purposes of clause (i), the term
20 ‘appropriate regional carrier’ means the carrier
21 having jurisdiction over the geographic area
22 that includes the permanent residence of the
23 patient to whom the item is furnished.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply to items furnished on or after
26 October 1, 1993.

1 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE
2 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing
3 in this subsection or the amendment made by this sub-
4 section may be construed to restrict the authority of the
5 Secretary of Health and Human Services to designate re-
6 gional carriers or modify claims jurisdiction rules with re-
7 spect to items or services under part B of the medicare
8 program that are not covered items under section 1834(a)
9 of the Social Security Act or prosthetic devices or orthotics
10 and prosthetics under section 1834(h) of such Act.

11 **SEC. 13463. RESTRICTIONS ON CERTAIN MARKETING AND**
12 **SALES ACTIVITIES.**

13 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
14 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
15 MENT TO MEDICARE BENEFICIARIES.—

16 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.
17 1395m(a)) is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(17) PROHIBITION AGAINST UNSOLICITED
20 TELEPHONE CONTACTS BY SUPPLIERS.—

21 “(A) IN GENERAL.—A supplier of a cov-
22 ered item under this subsection may not contact
23 an individual enrolled under this part by tele-
24 phone regarding the furnishing of a covered
25 item to the individual (other than a covered

1 item the supplier has already furnished to the
2 individual) unless—

3 “(i) the individual gives permission to
4 the supplier to make contact by telephone
5 for such purpose; or

6 “(ii) the supplier has furnished a cov-
7 ered item under this subsection to the indi-
8 vidual during the 15-month period preced-
9 ing the date on which the supplier contacts
10 the individual for such purpose.

11 “(B) PROHIBITING PAYMENT FOR ITEMS
12 FURNISHED SUBSEQUENT TO UNSOLICITED
13 CONTACTS.—If a supplier knowingly contacts
14 an individual in violation of subparagraph (A),
15 no payment may be made under this part for
16 any item subsequently furnished to the individ-
17 ual by the supplier.

18 “(C) EXCLUSION FROM PROGRAM FOR
19 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
20 LICITED CONTACTS.—If a supplier knowingly
21 contacts individuals in violation of subpara-
22 graph (A) to such an extent that the supplier’s
23 conduct establishes a pattern of contacts in vio-
24 lation of such subparagraph, the Secretary shall
25 exclude the supplier from participation in the

1 programs under this Act, in accordance with
2 the procedures set forth in subsections (c), (f),
3 and (g) of section 1128.”.

4 (2) REQUIRING REFUND OF AMOUNTS COL-
5 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
6 (42 U.S.C. 1395m(a)), as amended by paragraph
7 (1), is amended by adding at the end the following
8 new paragraph:

9 “(18) REFUND OF AMOUNTS COLLECTED FOR
10 CERTAIN DISALLOWED ITEMS.—

11 “(A) IN GENERAL.—If a nonparticipating
12 supplier furnishes to an individual enrolled
13 under this part a covered item for which no
14 payment may be made under this part by rea-
15 son of paragraph (17)(B), the supplier shall re-
16 fund on a timely basis to the patient (and shall
17 be liable to the patient for) any amounts col-
18 lected from the patient for the item, unless—

19 “(i) the supplier establishes that the
20 supplier did not know and could not rea-
21 sonably have been expected to know that
22 payment may not be made for the item by
23 reason of paragraph (17)(B), or

24 “(ii) before the item was furnished,
25 the patient was informed that payment

1 under this part may not be made for that
2 item and the patient has agreed to pay for
3 that item.

4 “(B) SANCTIONS.—If a supplier knowingly
5 and willfully fails to make refunds in violation
6 of subparagraph (A), the Secretary may apply
7 sanctions against the supplier in accordance
8 with section 1842(j)(2).

9 “(C) NOTICE.—Each carrier with a con-
10 tract in effect under this part with respect to
11 suppliers of covered items shall send any notice
12 of denial of payment for covered items by rea-
13 son of paragraph (17)(B) and for which pay-
14 ment is not requested on an assignment-related
15 basis to the supplier and the patient involved.

16 “(D) TIMELY BASIS DEFINED.—A refund
17 under subparagraph (A) is considered to be on
18 a timely basis only if—

19 “(i) in the case of a supplier who does
20 not request reconsideration or seek appeal
21 on a timely basis, the refund is made with-
22 in 30 days after the date the supplier re-
23 ceives a denial notice under subparagraph
24 (C), or

1 “(ii) in the case in which such a re-
2 consideration or appeal is taken, the re-
3 fund is made within 15 days after the date
4 the supplier receives notice of an adverse
5 determination on reconsideration or ap-
6 peal.”.

7 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
8 (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-
9 graph (12)” and inserting “Paragraphs (12) and (17)”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 subsections (a) and (b) shall apply to items furnished after
12 the expiration of the 60-day period that begins on the date
13 of the enactment of this Act.

14 **SEC. 13464. ANTI-KICKBACK CLARIFICATION.**

15 (a) IN GENERAL.—Section 1128B(b)(3)(B) (42
16 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting be-
17 fore the semicolon “(except that in the case of a contract
18 supply arrangement between any entity and a supplier of
19 medical supplies and equipment (as defined in section
20 1834(i)(4), but not including items described in subpara-
21 graph (F) of such section), such employment shall not be
22 considered bona fide to the extent that it includes tasks
23 of a clerical and cataloging nature in transmitting to sup-
24 pliers assignment rights of individuals eligible for benefits

1 under part B of title XVIII, or performance of
2 warehousing or stock inventory functions)”.
3

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply with respect to services fur-
6 nished on or after the first day of the first month that
7 begins after the expiration of the 60-day period beginning
8 on the date of the enactment of this Act.

9 **SEC. 13465. LIMITATIONS ON BENEFICIARY LIABILITY FOR**
10 **NONCOVERED SERVICES.**

11 (a) IN GENERAL.—Section 1834(i) (42 U.S.C.
12 1395m(i)), as added by section 13461(a)(1), is amended—

13 (1) by redesignating paragraph (4) as para-
14 graph (5), and

15 (2) by inserting after paragraph (3) the follow-
16 ing new paragraph:

17 “(4) LIMITATION ON PATIENT LIABILITY.—If a
18 supplier of medical equipment and supplies (as de-
19 fined in paragraph (5))—

20 “(A) furnishes an item or service to a ben-
21 eficiary for which no payment may be made by
22 reason of paragraph (1);

23 “(B) furnishes an item or service to a ben-
24 eficiary for which payment is denied in advance
under subsection (a)(15); or

1 “(C) furnishes an item or service to a ben-
2 eficiary for which payment is denied under sec-
3 tion 1862(a)(1);
4 any expenses incurred for items and services fur-
5 nished to an individual by such a supplier not on an
6 assigned basis shall be the responsibility of such
7 supplier. The individual shall have no financial re-
8 sponsibility for such expenses and the supplier shall
9 refund on a timely basis to the individual (and shall
10 be liable to the individual for) any amounts collected
11 from the individual for such items or services. The
12 provisions of subsection (a)(18) shall apply to re-
13 funds required under the previous sentence in the
14 same manner as such provisions apply to refunds
15 under such subsection.”.

16 (2) CONFORMING AMENDMENT.—Section
17 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as
18 amended by section 13464(a), is amended by strik-
19 ing “1834(i)(4)” and inserting “1834(i)(5)”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to items or services furnished
22 on or after October 1, 1993.

1 **SEC. 13466. ADJUSTMENTS FOR INHERENT REASONABLE-**
2 **NESS.**

3 (a) ADJUSTMENTS MADE TO FINAL PAYMENT
4 AMOUNTS.—

5 (1) IN GENERAL.—Section 1834(a)(10)(B) (42
6 U.S.C. 1395m(a)(10)(B)) is amended by adding at
7 the end the following: “In applying such provisions
8 to payments for an item under this subsection, the
9 Secretary shall make adjustments to the payment
10 basis for the item described in paragraph (1)(B) if
11 the Secretary determines (in accordance with such
12 provisions and on the basis of prices and costs appli-
13 cable at the time the item is furnished) that such
14 payment basis is not inherently reasonable.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall take effect on the date of the
17 enactment of this Act.

18 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

19 (1) IN GENERAL.—In accordance with section
20 1834(a)(10)(B) of the Social Security Act (as
21 amended by subsection (a)), the Secretary of Health
22 and Human Services shall determine whether the
23 payment amounts for the items described in para-
24 graph (2) are not inherently reasonable, and shall
25 adjust such amounts in accordance with such section
26 if the amounts are not inherently reasonable.

1 (2) ITEMS DESCRIBED.—The items referred to
2 in paragraph (1) are decubitus care equipment,
3 transcutaneous electrical nerve stimulators, and any
4 other items considered appropriate by the Secretary.

5 **SEC. 13467. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

6 (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.
7 1395m(a)(3)(A)) is amended by striking “ventilators, as-
8 pirators, IPPB machines, and nebulizers” and inserting
9 “ventilators and IPPB machines”.

10 (b) PAYMENT FOR ACCESSORIES RELATING TO
11 NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A)
12 (42 U.S.C. 1395m(a)) is amended—

13 (1) by striking “or” at the end of clause (i),
14 (2) by adding “or” at the end of clause (ii), and
15 (3) by inserting after clause (ii) the following
16 new clause:

17 “(iii) which is an accessory used in
18 conjunction with a nebulizer or aspirator,”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to items furnished on or after Jan-
21 uary 1, 1994.

22 **SEC. 13468. PAYMENT FOR OSTOMY SUPPLIES AND OTHER**
23 **SUPPLIES.**

24 (a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES,
25 AND UROLOGICALS.—

1 (1) IN GENERAL.—Section 1834(h)(1) (42
2 U.S.C. 1395m(h)(1)) is amended by adding at the
3 end the following new subparagraph:

4 “(E) EXCEPTION FOR CERTAIN ITEMS.—
5 Payment for ostomy supplies, tracheostomy
6 supplies, and urologicals shall be made in ac-
7 cordance with subparagraphs (B) and (C) of
8 section 1834(a)(2).”.

9 (2) CONFORMING AMENDMENT.—Section
10 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is
11 amended by striking “subparagraph (C),” and in-
12 serting “subparagraphs (C) and (E),”.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to items furnished on
15 or after January 1, 1994.

16 (b) SURGICAL DRESSINGS.—

17 (1) IN GENERAL.—Section 1834 (42 U.S.C.
18 1395m), as amended by section 13461(a), is amend-
19 ed by adding at the end the following new sub-
20 section:

21 “(j) PAYMENT FOR SURGICAL DRESSINGS.—

22 “(1) IN GENERAL.—Payment under this sub-
23 section for surgical dressings (described in section
24 1861(s)(5)) shall be made in a lump sum amount

1 for the purchase of the item in an amount equal to
2 80 percent of the lesser of—

3 “(A) the actual charge for the item; or

4 “(B) a payment amount determined in ac-
5 cordance with the methodology described in
6 subparagraphs (B) and (C) of subsection (a)(2)
7 (except that in applying such methodology, the
8 national limited payment amount referred to in
9 such subparagraphs shall be initially computed
10 based on local payment amounts using average
11 reasonable charges for the 12-month period
12 ending December 31, 1992, increased by the
13 covered item updates described in such sub-
14 section for 1993 and 1994).

15 “(2) EXCEPTIONS.—Paragraph (1) shall not
16 apply to surgical dressings that are—

17 “(A) furnished as an incident to a physi-
18 cian’s professional service; or

19 “(B) furnished by a home health agency.”.

20 (2) CONFORMING AMENDMENT.—Section
21 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by
22 sections 13478(e)(2) and 13445(e)(1), is amended—

23 (A) by striking “and” before “(P)”, and

24 (B) by inserting before the semicolon at
25 the end the following: “, and (Q) with respect

1 to surgical dressings, the amounts paid shall be
2 the amounts determined under section
3 1834(j);”.

4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall apply to items furnished on
6 or after January 1, 1994.

7 (c) REDUCTION IN PAYMENTS FOR TENS DE-
8 VICES.—

9 (1) IN GENERAL.—Section 1834(a)(1)(D) (42
10 U.S.C. 1395m(a)(1)(D)) is amended by striking “15
11 percent” the second place it appears and inserting
12 “45 percent”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to items furnished on
15 or after January 1, 1994.

16 **SEC. 13469. MISCELLANEOUS AND TECHNICAL CORREC-**
17 **TIONS.**

18 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-
19 graph (A) of section 1834(a)(14) (42 U.S.C.
20 1395m(a)(14)) is amended to read as follows:

21 “(A) for 1991 and 1992, the percentage
22 increase in the consumer price index for all
23 urban consumers (U.S. city average) for the 12-
24 month period ending with June of the previous
25 year reduced by 1 percentage point; and”.

1 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS
2 AND ADVANCED DETERMINATIONS OF COVERAGE.—

3 (1) IN GENERAL.—Effective on the date of the
4 enactment of this Act, section 1834(a)(15) (42
5 U.S.C. 1395m(a)(15)) is amended to read as
6 follows:

7 “(15) SPECIAL TREATMENT FOR POTENTIALLY
8 OVERUSED ITEMS.—

9 “(A) DEVELOPMENT OF LIST OF ITEMS BY
10 SECRETARY.—The Secretary shall develop and
11 periodically update a list of items for which
12 payment may be made under this subsection
13 that are potentially overused, and shall include
14 in such list seat-lift mechanisms, transcutane-
15 ous electrical nerve stimulators, motorized
16 scooters, decubitus care mattresses, and any
17 such other item determined by the Secretary to
18 be potentially overused on the basis of any of
19 the following criteria—

20 “(i) the item is marketed directly to
21 potential patients;

22 “(ii) the item is marketed with an
23 offer to potential patients to waive the
24 costs of coinsurance associated with the
25 item or is marketed as being available at

1 no cost to policyholders of a medicare sup-
2 plemental policy (as defined in section
3 1882(g)(1));

4 “(iii) the item has been subject to a
5 consistent pattern of overutilization; or

6 “(iv) a high proportion of claims for
7 payment for such item under this part may
8 not be made because of the application of
9 section 1862(a)(1).

10 “(B) ITEMS SUBJECT TO SPECIAL CARRIER
11 SCRUTINY.—Payment may not be made under
12 this part for any item contained in the list de-
13 veloped by the Secretary under subparagraph
14 (A) unless the carrier has subjected the claim
15 for payment for the item to special scrutiny or
16 has followed the procedures described in para-
17 graph (11)(C) with respect to the item.”.

18 (2) ADVANCE DETERMINATION BY CARRIERS.—
19 Effective January 1, 1994, section 1834(a)(11) (42
20 U.S.C. 1395m(a)) is amended by adding at the end
21 the following new subparagraph:

22 “(C) CARRIER DETERMINATIONS FOR CER-
23 TAIN ITEMS IN ADVANCE.—A carrier shall de-
24 termine in advance whether payment for an
25 item may not be made under this subsection be-

1 cause of the application of section 1862(a)(1)
2 if—

3 “(i) the item is a customized item
4 (other than inexpensive items specified by
5 the Secretary); or

6 “(ii) the item is a specified covered
7 item under subparagraph (B).”.

8 (3) INCLUSION IN CARRIER PERFORMANCE
9 EVALUATIONS.—Effective for standards applied for
10 contract years beginning after the date of the enact-
11 ment of this Act, section 1842(c) (42 U.S.C.
12 1395u(c)), as amended by section 13448(a), is
13 amended by adding at the end the following new
14 paragraph:

15 “(5) Each contract under this section which provides
16 for the disbursement of funds, as described in subsection
17 (a)(1)(B), shall require the carrier to meet criteria devel-
18 oped by the Secretary to measure the timeliness of carrier
19 responses to requests for payment of items described in
20 section 1834(a)(11)(C).”.

21 (4) APPLICATION TO PROSTHETIC DEVICES AND
22 ORTHOTICS AND PROSTHETICS.—Section 1834(h)(3)
23 (42 U.S.C. 1395m(h)(3)) is amended by striking
24 “paragraph (10) and paragraph (11)” and inserting
25 “paragraphs (10) and (11)”.

1 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
2 EQUIPMENT SUPPLIER COSTS.—

3 (1) COLLECTION AND ANALYSIS OF SUPPLIER
4 COST DATA.—The Administration of the Health
5 Care Financing Administration shall, in consultation
6 with appropriate organizations, collect data on sup-
7 plier costs of durable medical equipment for which
8 payment may be made under part B of the medicare
9 program, and shall analyze such data to determine
10 the proportions of such costs attributable to the
11 service and product components of furnishing such
12 equipment and the extent to which such proportions
13 vary by type of equipment and by the geographic
14 region in which the supplier is located.

15 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
16 MENT INDEX; REPORTS.—Not later than January 1,
17 1995—

18 (A) the Administrator shall submit a re-
19 port to the Committees on Energy and Com-
20 merce and Ways and Means of the House of
21 Representatives and the Committee on Finance
22 of the Senate on the data collected and the
23 analysis conducted under paragraph (1), and
24 shall include in such report the Administrator's
25 recommendations for a geographic cost adjust-

1 ment index for suppliers of durable medical
2 equipment under the medicare program and an
3 analysis of the impact of such proposed index
4 on payments under the medicare program; and

5 (B) the Comptroller General shall submit a
6 report to the Committees on Energy and Com-
7 merce and Ways and Means of the House of
8 Representatives and the Committee on Finance
9 of the Senate analyzing on a geographic basis
10 the supplier costs of durable medical equipment
11 under the medicare program.

12 (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)
13 (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”
14 and inserting “56”.

15 (e) OTHER MISCELLANEOUS AND TECHNICAL
16 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990
17 is amended by striking “amendment made by subsection
18 (a)” and inserting “amendments made by this sub-
19 section”.

20 (2) Section 4152(c)(2) of OBRA–1990 is amended
21 by striking “1395m(a)(7)(A)” and inserting
22 “1395m(a)(7)”.

23 (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.
24 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause
25 (v)” and inserting “clause (vi)”.

1 (4) Section 1834(a)(7)(C)(i) (42 U.S.C.
2 1395m(a)(7)(C)(i)) is amended by striking “or paragraph
3 (3)”.

4 (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is
5 amended by striking subparagraph (D).

6 (6) Section 4153(c)(1) of OBRA-1990 is amended
7 by striking “1834(a)” and inserting “1834(h)”.

8 (7) Section 4153(d)(2) of OBRA-1990 is amended
9 by striking “Reconciliation” and inserting “Reconcili-
10 ation”.

11 (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is
12 amended by striking paragraph (6).

13 (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-
14 ed—

15 (i) in subparagraphs (A) and (B) of paragraph
16 (1), by striking “(2) through (7)” each place it
17 appears and inserting “(2) through (5) and (7)”;

18 (ii) in paragraph (7), by striking “(2) through
19 (6)” and inserting “(2) through (5)”;

20 (iii) in paragraph (8), by striking “paragraphs
21 (6) and (7)” each place it appears in the matter pre-
22 ceding subparagraph (A) and in subparagraph (C)
23 and inserting “paragraph (7)”; and

24 (iv) in paragraph (8)(A)(i), by striking “de-
25 scribed—” and all that follows and inserting “de-

1 scribed in paragraph (7) equal to the average of the
2 purchase prices on the claims submitted on an as-
3 signment-related basis for the unused item supplied
4 during the 6-month period ending with December
5 1986.”.

6 (9) The amendments made by this subsection shall
7 take effect as if included in the enactment of OBRA-1990.

8 **Subchapter E—Other Provisions**

9 **SEC. 13471. CLARIFYING PAYMENTS FOR MEDICALLY DI-** 10 **RECTED CERTIFIED REGISTERED NURSE AN-** 11 **ESTHETIST SERVICES.**

12 (a) IN GENERAL.—Section 1833(l)(4)(B) (42 U.S.C.
13 1395l(l)(4)(B)) is amended to read as follows:

14 “(B) Except as provided in subparagraph (D), the
15 conversion factor used to determine the amount paid
16 under the fee schedule under this subsection for services
17 furnished by a certified registered nurse anesthetist who
18 is medically directed—

19 “(i) in a year after 1993 and before 1997, shall
20 be \$10.75, or

21 “(ii) in a subsequent calendar year, shall be the
22 previous year’s conversion factor increased by the
23 update determined under section 1848(d)(3) for
24 physician anesthesia services for that year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to services furnished on or after
3 January 1, 1994.

4 **SEC. 13472. EXTENSION OF ALZHEIMER'S DISEASE DEM-**
5 **ONSTRATION PROJECTS.**

6 Section 9342 of OBRA–1986, as amended by section
7 4164(a)(2) of OBRA–1990, is amended—

8 (1) in subsection (c)(1), by striking “4 years”
9 and inserting “5 years”; and

10 (2) in subsection (f), —

11 (A) by striking “\$55,000,000” and insert-
12 ing “\$58,000,000”, and

13 (B) by striking “\$3,000,000” and insert-
14 ing “\$5,000,000”.

15 **SEC. 13473. ORAL CANCER DRUGS.**

16 (a) NEW COVERAGE OF CERTAIN SELF-ADMINIS-
17 TERED ANTICANCER DRUGS.—Section 1861(s)(2) (42
18 U.S.C. 1395(s)(2)), as amended by section
19 13478(f)(8)(B), is amended—

20 (1) by striking “and” at the end of subpara-
21 graph (N);

22 (2) by adding “and” at the end of subpara-
23 graph (O); and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(P) an oral drug (which is approved by the
2 Federal Food and Drug Administration) prescribed
3 for use as an anticancer chemotherapeutic agent for
4 a given indication, and containing an active ingredi-
5 ent (or ingredients), which is the same indication
6 and active ingredient (or ingredients) as a drug
7 which the carrier determines would be covered pur-
8 suant to subparagraph (A) or (B) if the drug could
9 not be self-administered;”.

10 (b) UNIFORM COVERAGE OF “OFF-LABEL”
11 ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C.
12 1395x(t)) is amended—

13 (1) by inserting “(1)” after “(t)”;

14 (2) by striking “(m)(5) of this section” and in-
15 serting “(m)(5) and paragraph (2)”;

16 (3) by adding at the end the following new
17 paragraph:

18 “(2)(A) For purposes of paragraph (1), the term
19 ‘drugs’ also includes any drugs or biologicals used in an
20 anticancer chemotherapeutic regimen for a medically ac-
21 cepted indication (as described in subparagraph (B)).

22 “(B) In subparagraph (A), the term ‘medically ac-
23 cepted indication’, with respect to the use of a drug, in-
24 cludes any use which has been approved by the Food and

1 Drug Administration for the drug, and includes another
2 use of the drug if—

3 “(i) the drug has been approved by the Food
4 and Drug Administration, and

5 “(ii) the carrier involved determines, based
6 upon guidance provided by the Secretary to carriers
7 for determining medically accepted uses of drugs,
8 that the use is medically accepted taking into ac-
9 count the uses of such drug which are—

10 “(I) included (or approved for inclusion) in
11 one or more of the following compendia: the
12 American Hospital Formulary Service-Drug In-
13 formation, the American Medical Association
14 Drug Evaluations, and the United States Phar-
15 macopoeia-Drug Information; or

16 “(II) supported by clinical evidence in peer
17 reviewed medical literature appearing in publi-
18 cations which have been specifically approved
19 for purposes of this paragraph by the Sec-
20 retary.”.

21 (c) STUDY OF MEDICARE COVERAGE OF PATIENT
22 CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF
23 NEW CANCER THERAPIES.—

24 (1) STUDY.—The Secretary of Health and
25 Human Services shall conduct a study of the effects

1 of expressly covering under the medicare program
2 the patient care costs for beneficiaries enrolled in
3 clinical trials of new cancer therapies, where the pro-
4 tocol for the trial has been approved by the National
5 Cancer Institute or meets similar scientific and ethi-
6 cal standards, including approval by an institutional
7 review board. The study shall include—

8 (A) an estimate of the cost of such cov-
9 erage, taking into account the extent to which
10 medicare currently pays for such patient care
11 costs in practice;

12 (B) an assessment of the extent to which
13 such clinical trials represent the best available
14 treatment for the patients involved and of the
15 effects of participation in the trials on the
16 health of such patients;

17 (C) an assessment of whether progress in
18 developing new anticancer therapies would be
19 assisted by medicare coverage of such patient
20 care costs; and

21 (D) an evaluation of whether there should
22 be special criteria for the admission of medicare
23 beneficiaries (on account of their age or phys-
24 ical condition) to clinical trials for which medi-
25 care would pay the patient care costs.

1 (2) REPORT.—Not later than 2 years after the
2 date of the enactment of this Act, the Secretary of
3 Health and Human Services shall submit a report
4 on the study conducted under paragraph (1) to the
5 Committee on Ways and Means and the Committee
6 on Energy and Commerce of the House of Rep-
7 resentatives and the Committee on Finance of the
8 Senate. Such report shall include recommendations
9 as to the coverage under the medicare program of
10 patient care costs of beneficiaries enrolled in clinical
11 trials of new cancer therapies.

12 (d) EFFECTIVE DATE.—The amendments made by
13 subsections (a) and (b) shall apply to items furnished on
14 or after January 1, 1994.

15 **SEC. 13474. PART B PREMIUM PAYMENTS FOR LATE EN-**
16 **ROLLMENT.**

17 (a) LIMITATION ON MEDICARE PART B LATE EN-
18 ROLLMENT PENALTY.—

19 (1) IN GENERAL.—Section 1839 (42 U.S.C.
20 1395r) is amended by adding at the end the follow-
21 ing new subsection:

22 “(g) The percent increase in premiums under sub-
23 section (b) due to late enrollment under this part shall
24 not exceed 25 percent in the case of an individual who
25 is an annuitant described in subparagraph (A) or (B) of

1 section 8901(3) of title 5, United States Code (including
2 an individual or survivor described in section
3 8906(g)(2)(A) of such title) for a month if—

4 “(1) during the individual’s initial enrollment
5 period under section 1837(d)—

6 “(A) the individual was enrolled in a group
7 health plan (as defined in section
8 1862(b)(1)(A)(v)) that provided coverage of
9 items and services for which payment may be
10 made under this part, and

11 “(B) the individual elected not to enroll (or
12 to be deemed enrolled) under this section; and

13 “(2) due to a change of coverage under such
14 plan, there is no coverage during the month under
15 such plan with respect to items and services for
16 which payment may be made under this part unless
17 the individual is enrolled under this part.”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by paragraph (1) shall apply to premiums for
20 months beginning with January 1992.

21 (b) PAYMENT OF PART B PREMIUM LATE ENROLL-
22 MENT PENALTIES BY STATES.—Section 1839 (42 U.S.C.
23 1395r), as amended by subsection (a), is further amended
24 by adding at the end the following new subsection:

1 “(h)(1) Upon the request of a State, the Secretary
2 may enter into an agreement with the State under which
3 the State agrees to pay on a quarterly or other periodic
4 basis to the Secretary (to be deposited in the Treasury
5 to the credit of the Federal Supplementary Medical Insur-
6 ance Trust Fund) an amount equal to the amount of the
7 part B late enrollment premium increases with respect to
8 the premiums for eligible individuals (as defined in para-
9 graph (3)(A)).

10 “(2) No part B late enrollment premium increase
11 shall apply to an eligible individual for premiums for
12 months for which the amount of such an increase is pay-
13 able under an agreement under paragraph (1).

14 “(3) In this subsection:

15 “(A) The term ‘eligible individual’ means an in-
16 dividual who is enrolled under this part B and who
17 is within a class of individuals specified in the agree-
18 ment under paragraph (1).

19 “(B) The term ‘part B late enrollment premium
20 increase’ means any increase in a premium as a re-
21 sult of the application of subsection (b).”.

22 **SEC. 13475. COVERAGE OF SERVICES OF SPEECH-LAN-**
23 **GUAGE PATHOLOGISTS AND AUDIOLOGISTS.**

24 (a) SERVICES DEFINED.—Section 1861 (42 U.S.C.
25 1395x), as amended by section 13478(f)(8)(E), is amend-

1 ed by inserting after subsection (kk) the following new
2 subsection:

3 “Speech-Language Pathology Services; Audiology
4 Services

5 “(ll)(1) The term ‘speech-language pathology serv-
6 ices’ means such speech, language, and related function
7 assessment and rehabilitation services furnished by a
8 qualified speech-language pathologist as the speech-lan-
9 guage pathologist is legally authorized to perform under
10 State law (or the State regulatory mechanism provided by
11 State law) as would otherwise be covered if furnished by
12 a physician.

13 “(2) The term ‘audiology services’ means such hear-
14 ing and balance assessment services furnished by a quali-
15 fied audiologist as the audiologist is legally authorized to
16 perform under State law (or the State regulatory mecha-
17 nism provided by State law).

18 “(3) In this subsection:

19 “(A) The term ‘qualified speech-language pa-
20 thologist’ means an individual with a master’s or
21 doctoral degree in speech-language pathology who
22 has performed not less than 9 months of supervised
23 full-time speech-language pathology services after
24 obtaining such degree and who—

1 “(i) is licensed (or is otherwise certified) as
2 a speech-language pathologist by the State in
3 which the individual furnishes such services, or

4 “(ii) in the case of an individual who fur-
5 nishes services in a State which does not pro-
6 vide for the licensing (or other form of certifi-
7 cation) of speech-language pathologists, has
8 successfully completed a national clinical com-
9 petency examination in speech-language pathol-
10 ogy approved by the Secretary.

11 “(B) The term ‘qualified audiologist’ means an
12 individual with a master’s or doctoral degree in
13 audiology who has performed not less than 9 months
14 of supervised full-time audiology services after ob-
15 taining such degree and who—

16 “(i) is licensed (or is otherwise certified) as
17 an audiologist by the State in which the individ-
18 ual furnishes such services, or

19 “(ii) in the case of an individual who fur-
20 nishes services in a State which does not pro-
21 vide for the licensing (or other form of certifi-
22 cation) of audiologists, has successfully com-
23 pleted a national clinical competency examina-
24 tion in audiology approved by the Secretary.”.

1 (b) CONFORMING AMENDMENTS RELATING TO MED-
2 ICARE TREATMENT OF SPEECH AND LANGUAGE SERV-
3 ICES.—

4 (1) EXTENDED CARE SERVICES.—Section
5 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by
6 striking “, occupational, or speech therapy” and in-
7 sserting “or occupational therapy or speech-language
8 pathology services”.

9 (2) HOME HEALTH SERVICES.—Section
10 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by
11 striking “, occupational, or speech therapy” and in-
12 sserting “or occupational therapy or speech-language
13 pathology services”.

14 (3) OUTPATIENT PHYSICAL THERAPY SERV-
15 ICES.—The fourth sentence of section 1861(p) (42
16 U.S.C. 1395x(p)) is amended by striking “speech
17 pathology services” and inserting “speech-language
18 pathology services”.

19 (4) COMPREHENSIVE OUTPATIENT REHABILITA-
20 TION FACILITY SERVICES.—Section 1861(cc)(1)(B)
21 (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking
22 “speech pathology services” and inserting “speech-
23 language pathology services”.

24 (5) HOSPICE CARE.—Section 1861(dd)(1)(B)
25 (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking

1 “therapy or speech-language pathology” and insert-
2 ing “therapy, or speech-language pathology serv-
3 ices”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on January 1, 1994.

6 **SEC. 13476. EXTENSION OF MUNICIPAL HEALTH SERVICE**
7 **DEMONSTRATION PROJECTS.**

8 Section 9215 of the Consolidated Omnibus Budget
9 Reconciliation Act of 1985, as amended by section 6135
10 of OBRA-1989, is amended—

11 (1) by striking “December 31, 1993” and in-
12 serting “December 31, 1997”, and

13 (2) in the second sentence, by inserting after
14 “beneficiary costs,” the following: “costs to the med-
15 icaid program and other payers, access to care, out-
16 comes, beneficiary satisfaction, utilization differences
17 among the different populations served by the
18 projects,”.

19 **SEC. 13477. TREATMENT OF CERTAIN INDIAN HEALTH PRO-**
20 **GRAMS AND FACILITIES AS FEDERALLY-**
21 **QUALIFIED HEALTH CENTERS.**

22 (a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C.
23 1395x(aa)(4)) is amended—

24 (1) by striking “or” at the end of subparagraph
25 (B);

1 (2) by striking the period at the end of sub-
2 paragraph (C) and inserting “; or”; and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(D) is an outpatient health program or facility
6 operated by a tribe or tribal organization under the
7 Indian Self-Determination Act or by an urban In-
8 dian organization receiving funds under title V of
9 the Indian Health Care Improvement Act.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to services furnished on or after
12 January 1, 1994.

13 **SEC. 13478. MISCELLANEOUS AND TECHNICAL CORREC-**
14 **TIONS.**

15 (a) REVISION OF INFORMATION ON PART B CLAIMS
16 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is
17 amended—

18 (1) by striking “provider number” and inserting
19 “unique physician identification number”; and

20 (2) by striking “and indicate whether or not the
21 referring physician is an interested investor (within
22 the meaning of section 1877(h)(5))”.

23 (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-
24 tive with respect to services furnished on or after January
25 1, 1991, section 6113(c) of OBRA-1989 is amended—

1 (1) by inserting “and clinical social worker
2 services” after “psychologist services”; and

3 (2) by striking “psychologist” the second and
4 third place it appears and inserting “psychologist or
5 clinical social worker”.

6 (c) REPORTS ON HOSPITAL OUTPATIENT PAY-
7 MENT.—(1) OBRA–1989 is amended by striking section
8 6137.

9 (2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is
10 amended—

11 (A) by striking paragraph (6); and

12 (B) in paragraph (7)—

13 (i) by striking “systems” each place it ap-
14 pears and inserting “system”; and

15 (ii) by striking “paragraphs (1) and (6)”
16 and inserting “paragraph (1)”.

17 (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-
18 VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1)
19 Effective as if included in the enactment of OBRA–1989,
20 section 1833(n)(1)(B)(i)(II) (42 U.S.C.
21 1395l(n)(1)(B)(i)(II)) is amended—

22 (A) by inserting “and for services described in
23 subsection (a)(2)(E)(ii) furnished on or after Janu-
24 ary 1, 1992” after “1989”; and

1 (B) by striking “1842(b)” and inserting
2 “1842(b) (or, in the case of services furnished on or
3 after January 1, 1992, under section 1848)”.

4 (2) Effective as if included in the enactment of
5 OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.
6 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,
7 1989” and inserting “April 1, 1989”.

8 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL
9 AREAS (SECTION 4155 OF OBRA–1990).—(1) Section
10 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is
11 amended—

12 (A) by striking “subsection (aa)(3)” and insert-
13 ing “subsection (aa)(5)”; and

14 (B) by striking “subsection (aa)(4)” and insert-
15 ing “subsection (aa)(6)”.

16 (2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is
17 amended—

18 (A) by striking “and” before “(N)”; and

19 (B) with respect to the matter inserted by sec-
20 tion 4155(b)(2)(B) of OBRA–1990—

21 (i) by striking “(M)” and inserting “, and
22 (O)”, and

23 (ii) by transferring and inserting it (as
24 amended) immediately before the semicolon at
25 the end.

1 (3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is
2 amended—

3 (A) by striking “ambulatory” each place it ap-
4 pears and inserting “or ambulatory”; and

5 (B) by striking “center,” and inserting “cen-
6 ter”.

7 (4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))
8 is amended by striking “subsection (a)(1)(M)” and insert-
9 ing “subsection (a)(1)(O)”.

10 (5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is
11 amended by striking “subsection (s)(2)(K)(i)” and insert-
12 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

13 (6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is
14 amended by striking “this Act” and inserting “this title”.

15 (7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is
16 amended by striking “1861(s)(2)(K)(i)” and inserting
17 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

18 (8) Section 1866(a)(1)(H) (42 U.S.C.
19 1395cc(a)(1)(H)) is amended by striking
20 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or
21 1861(s)(2)(K)(iii)”.

22 (f) OTHER MISCELLANEOUS AND TECHNICAL
23 AMENDMENTS.—

24 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-
25 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED

1 PLAN.—(A) Subparagraphs (A) and (B) of section
2 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amend-
3 ed—

4 (i) by striking “beginning with the first
5 day of the first month in which the individual
6 is no longer enrolled” and inserting “including
7 each month during any part of which the indi-
8 vidual is enrolled”; and

9 (ii) by striking “and ending seven months
10 later” and inserting “ending with the last day
11 of the eighth consecutive month in which the in-
12 dividual is at no time so enrolled”.

13 (B) Paragraphs (1) and (2) of section 1838(e)
14 (42 U.S.C. 1395q(e)) are amended to read as fol-
15 lows:

16 “(1) in any month of the special enrollment pe-
17 riod in which the individual is at any time enrolled
18 in a plan (specified in subparagraph (A) or (B), as
19 applicable, of section 1837(i)(3)) or in the first
20 month following such a month, the coverage period
21 shall begin on the first day of the month in which
22 the individual so enrolls (or, at the option of the in-
23 dividual, on the first day of any of the following
24 three months), or

1 “(2) in any other month of the special enroll-
2 ment period, the coverage period shall begin on the
3 first day of the month following the month in which
4 the individual so enrolls.”.

5 (C) The amendments made by subparagraphs
6 (A) and (B) shall take effect on the first day of the
7 first month that begins after the expiration of the
8 120-day period that begins on the date of the enact-
9 ment of this Act.

10 (2) BLEND AMOUNTS FOR AMBULATORY SUR-
11 GICAL CENTER PAYMENTS.—Subclauses (I) and (II)
12 of section 1833(i)(3)(B)(ii) (42 U.S.C.
13 13951(i)(3)(B)(ii)) are each amended—

14 (A) by striking “for reporting” and insert-
15 ing “for portions of cost reporting”; and

16 (B) by striking “and on or before” and in-
17 serting “and ending on or before”.

18 (3) CLINICAL DIAGNOSTIC LABORATORY TESTS
19 (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5)
20 of OBRA-1990 is amended by striking “(1)(A)” and
21 inserting “(1)(A),”.

22 (4) SEPARATE PAYMENT UNDER PART B FOR
23 CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—
24 Section 4157(a) of OBRA-1990 is amended by
25 striking “(a) SERVICES OF” and all that follows

1 through “Section” and inserting “(a) TREATMENT
2 OF SERVICES OF CERTAIN HEALTH PRACTITION-
3 ERS.—Section”.

4 (5) CERTIFIED REGISTERED NURSE ANES-
5 THETISTS (SECTION 4160 OF OBRA-1990).—Section
6 1833(l)(4)(B)(ii)(VII) (42 U.S.C.
7 1395l(l)(4)(B)(ii)(VII)) is amended by striking
8 “1997” and inserting “1996”.

9 (6) COMMUNITY HEALTH CENTERS AND RURAL
10 HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—
11 (A) The fourth sentence of section 1861(aa)(2) (42
12 U.S.C. 1395x(aa)(2)) is amended—

13 (i) by striking “certification” the first
14 place it appears and inserting “approval”; and

15 (ii) by striking “the Secretary’s approval
16 or disapproval of the certification” and insert-
17 ing “Secretary’s approval or disapproval”.

18 (B) Section 4161(a)(7)(B) of OBRA-1990 is
19 amended by inserting “and to the Committee on Fi-
20 nance of the Senate” after “Representatives”.

21 (7) SCREENING MAMMOGRAPHY (SECTION 4163
22 OF OBRA-1990).—Section 4163 of OBRA-1990 is
23 amended—

24 (A) by adding at the end of subsection (d)
25 the following new paragraph:

1 “(3) The amendment made by paragraph
2 (2)(A)(iv) shall apply to screening pap smears per-
3 formed on or after July 1, 1990.”; and

4 (B) in subsection (e), by striking “The
5 amendments” and inserting “Except as pro-
6 vided in subsection (d)(3), the amendments”.

7 (8) INJECTABLE DRUGS FOR TREATMENT OF
8 OSTEOPOROSIS.—

9 (A) CLARIFICATION OF DRUGS COV-
10 ERED.—The section 1861(jj) (42 U.S.C.
11 1395x(jj)) inserted by section 4156(a)(2) of
12 OBRA-1990 is amended—

13 (i) in the matter preceding paragraph
14 (1), by striking “a bone fracture related
15 to”; and

16 (ii) in paragraph (1), by striking “pa-
17 tient” and inserting “individual has suf-
18 fered a bone fracture related to post-meno-
19 pausal osteoporosis and that the individ-
20 ual”.

21 (B) LIMITING COVERAGE TO DRUGS PRO-
22 VIDED BY HOME HEALTH AGENCIES.—(i) The
23 section 1861(jj) (42 U.S.C. 1395x(jj)) inserted
24 by section 4156(a)(2) of OBRA-1990 is

1 amended by striking “if” and inserting “by a
2 home health agency if”.

3 (ii) Section 1861(m)(5) (42 U.S.C.
4 1395x(m)(5)) is amended by striking “but ex-
5 cluding” and inserting “and a covered
6 osteoporosis drug (as defined in subsection
7 (kk), but excluding other”.

8 (iii) Section 1861(s)(2) (42 U.S.C.
9 1395x(s)(2)) is amended—

10 (I) by adding “and” at the end of
11 subparagraph (N), and

12 (II) by striking subparagraph (O) and
13 redesignating subparagraph (P) as sub-
14 paragraph (O).

15 (C) PAYMENT BASED ON REASONABLE
16 COST.—Section 1833(a)(2) (42 U.S.C.
17 1395l(a)(2)) is amended—

18 (i) in subparagraph (A), by striking
19 “health services” and inserting “health
20 services (other than covered osteoporosis
21 drug (as defined in section 1861(kk)))”;

22 (ii) by striking “and” at the end of
23 subparagraph (D);

24 (iii) by striking the semicolon at the
25 end and inserting “; and”; and

1 (iv) by adding at the end the following
2 new subparagraph:

3 “(F) with respect to covered osteoporosis
4 drug (as defined in section 1861(kk)) furnished
5 by a home health agency, 80 percent of the rea-
6 sonable cost of such service, as determined
7 under section 1861(v);”.

8 (D) APPLICATION OF PART B DEDUCT-
9 IBLE.—Section 1833(b)(2) (42 U.S.C.
10 1395l(b)(2)) is amended by striking “services”
11 and inserting “services (other than covered
12 osteoporosis drug (as defined in section
13 1861(kk)))”.

14 (E) COVERED OSTEOPOROSIS DRUG (SEC-
15 TION 4156 OF OBRA-1990).—Section 1861 (42
16 U.S.C. 1395x) is amended, in the subsection
17 (jj) inserted by section 4156(a)(2) of OBRA-
18 1990, by striking “(jj) The term” and inserting
19 “(kk) The term”.

20 (9) OTHER MISCELLANEOUS AND TECHNICAL
21 CORRECTIONS (SECTION 4164 OF OBRA-1990).—

22 (A) OWNERSHIP DISCLOSURE REQUIRE-
23 MENTS.—(i) Section 1124A(a)(2)(A) (42
24 U.S.C. 1320a-3a(a)(2)(A)) is amended by
25 striking “of the Social Security Act”.

1 (ii) Section 4164(b)(4) of OBRA-1990 is
2 amended by striking “paragraph” and inserting
3 “paragraphs”.

4 (B) DIRECTORY OF UNIQUE PHYSICIAN
5 IDENTIFIER NUMBERS.—Section 4164(c) of
6 OBRA-1990 is amended by striking “publish”
7 and inserting “publish, and shall periodically
8 update,”.

9 (g) EFFECTIVE DATE.—Except as otherwise provided
10 in this section, the amendments made by this section shall
11 take effect as if included in the enactment of OBRA-1990.

12 **Subchapter F—Part B Premium**

13 **SEC. 13481. PART B PREMIUM.**

14 Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

15 (1) in paragraph (1)(A), by inserting “and for
16 each month in 1996 and 1997” after “January
17 1991”, and

18 (2) in paragraph (2), by striking “1991” and
19 inserting “1998”.

1 **CHAPTER 3—PROVISIONS RELATING TO**
2 **PARTS A AND B**

3 **Subchapter A—Elimination of Updates**

4 **SEC. 13501. ELIMINATION OF COST-OF-LIVING UPDATE IN**
5 **PER RESIDENT AMOUNTS FOR DIRECT MEDI-**
6 **CAL EDUCATION.**

7 Section 1886(h)(2)(D) (42 U.S.C. 1395ww(h)(2)(D))
8 is amended by inserting “(other than in the case of cost
9 reporting periods beginning during fiscal year 1994 or fis-
10 cal year 1995)” after “updated”.

11 **SEC. 13502. ELIMINATION OF INFLATION UPDATE IN COST**
12 **LIMITS FOR HOME HEALTH SERVICES.**

13 The Secretary of Health and Human Services shall
14 not provide for any increase, on the basis of inflation or
15 changes in the cost of goods and services, in the per visit
16 cost limits for home health services under section
17 1861(v)(1)(L) of the Social Security Act for cost reporting
18 periods beginning during fiscal year 1994 or fiscal year
19 1995.

20 **Subchapter B—Medicare Secondary Payer**
21 **Provisions**

22 **SEC. 13511. EXTENSION OF TRANSFER OF DATA.**

23 (a) EXTENSION OF DATA MATCH PROGRAM.—

1 (1) Section 1862(b)(5)(C)(iii) of the Social Se-
2 curity Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amend-
3 ed by striking “1995” and inserting “1998”.

4 (2) Section 6103(l)(12)(F) of the Internal Rev-
5 enue Code of 1986 is amended—

6 (A) in clause (i), by striking “1995” and
7 inserting “1998”,

8 (B) in clause (ii)(I), by striking “1994”
9 and inserting “1997”, and

10 (C) in clause (ii)(II), by striking “1995”
11 and inserting “1998”.

12 (b) SECONDARY PAYER EXEMPTION FOR MEMBERS
13 OF RELIGIOUS ORDERS.—Effective as if included in the
14 enactment of OBRA–1989, section 6202(e)(2) of such Act
15 is amended by adding at the end the following: “Such
16 amendment also shall apply to items and services fur-
17 nished before such date with respect to secondary payer
18 cases which the Secretary of Health and Human Services
19 had not identified as of such date.”.

20 (c) PERMITTING THE USE OF MINIMUM INCOME
21 THRESHOLDS.—

22 (1) Section 6103(l)(12)(B)(i) of the Internal
23 Revenue Code of 1986 is amended by inserting “,
24 above an amount (if any) specified by the Secretary

1 of Health and Human Services,” after “section
2 3401(a)”.

3 (2) The matter in section 6103(l)(12)(B)(ii) of
4 such Code preceding subclause (I) is amended by in-
5 sserting “, above an amount (if any) specified by the
6 Secretary of Health and Human Services,” after
7 “wages”.

8 (3) The heading to section 6103(l)(12) of such
9 Code is amended by striking “TAXPAYER IDENTITY”
10 and inserting “RETURN”.

11 **SEC. 13512. 3-YEAR EXTENSION OF MEDICARE SECONDARY**
12 **PAYER TO DISABLED BENEFICIARIES.**

13 Section 1862(b)(1)(B)(iii) (42 U.S.C.
14 1395y(b)(1)(B)(iii)) is amended by striking “1995” and
15 inserting “1998”.

16 **SEC. 13513. 3-YEAR EXTENSION OF 18-MONTH RULE FOR**
17 **ESRD BENEFICIARIES.**

18 Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is
19 amended by striking “1996” and inserting “1999”.

20 **SEC. 13514. MEDICARE SECONDARY PAYER REFORMS.**

21 (a) IMPROVING IDENTIFICATION OF MEDICARE SEC-
22 ONDARY PAYER SITUATIONS.—

23 (1) SURVEY OF BENEFICIARIES.—

1 (A) IN GENERAL.—Section 1862(b)(5) (42
2 U.S.C. 1395y(b)(5)) is amended by adding at
3 the end the following new subparagraph:

4 “(D) OBTAINING INFORMATION FROM
5 BENEFICIARIES.—Before an individual applies
6 for benefits under part A or enrolls under part
7 B, the Administrator shall mail the individual a
8 questionnaire to obtain information on whether
9 the individual is covered under a primary plan
10 and the nature of the coverage provided under
11 the plan, including the name, address, and iden-
12 tifying number of the plan.”.

13 (B) DISTRIBUTION OF QUESTIONNAIRE BY
14 CONTRACTOR.—The Secretary of Health and
15 Human Services shall enter into an agreement
16 with an entity not later than November 1,
17 1993, to distribute the questionnaire described
18 in section 1862(b)(5)(D) of the Social Security
19 Act (as added by subparagraph (A)).

20 (C) NO MEDICARE SECONDARY PAYER DE-
21 NIAL BASED ON FAILURE TO COMPLETE QUES-
22 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.
23 1395y(b)(2)) is amended by adding at the end
24 the following new subparagraph:

1 “(C) TREATMENT OF QUESTIONNAIRES.—
2 The Secretary may not fail to make payment
3 under subparagraph (A) solely on the ground
4 that an individual failed to complete a question-
5 naire concerning the existence of a primary
6 plan.”.

7 (2) MANDATORY SCREENING BY PROVIDERS
8 AND SUPPLIERS UNDER PART B.—

9 (A) IN GENERAL.—Section 1862(b) (42
10 U.S.C. 1395y(b)) is amended by adding at the
11 end the following new paragraph:

12 “(6) SCREENING REQUIREMENTS FOR PROVID-
13 ERS AND SUPPLIERS.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this title, no payment may be
16 made for any item or service furnished under
17 part B unless the entity furnishing such item or
18 service completes (to the best of its knowledge
19 and on the basis of information obtained from
20 the individual to whom the item or service is
21 furnished) the portion of the claim form relat-
22 ing to the availability of other health benefit
23 plans.

24 “(B) PENALTIES.—An entity that know-
25 ingly, willfully, and repeatedly fails to complete

